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FILED
U.S. DISTRICT COURT
MIDDLE DISTRICT OF TENN
SEP 21 2001

DEPUTY CLERK

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

JAMES G. AKERS, Plaintiff,	FILE NUMBER: 3:00-1142
v.	**NOTICE OF APPEAL**
CAROLYN P. BISHOP; *et al*, Defendants.	

NOTICE IS HEREBY GIVEN that the Plaintiff, James G.Akers, **without counsel**, in the above named case, hereby appeals to theUnited States Court of Appeals for the Sixth Circuit from the "ORDER" transferring the same to United States District Court for the Eastern District of Kentucky as entered in this action by Circuit Judge Robert L. Echols in the United States District Court for the Middle District of Tennessee, Nashville Division, on the 18th day of September, 2001.

Respectfully submitted,

s/ James G. Akers
JAMES G. AKERS, Plaintiff
Post Office Box 3648
Brentwood, Tennessee 37024
Telephone: 615/834-2843
Facsimile: 615/831-9307

CERTIFICATE OF GOOD FAITH

COMES THE PLAINTIFF, James G. Akers, **without counsel**, and hereby certifies that the hereinbefore "NOTICE OF APPEAL" is filed in good faith inasmuch as there are genuine issues of material fact which, pursuant to provisions of Constitutional and Statutory Laws of the United States of America coupled with applicable common law and principles of equity at law as are all sufficiently contained within the United States District Court for the Middle District of Tennessee records, preclude the transfer of the instant case to United States District Court for the Eastern District of Kentucky.

s/ James G. Akers
JAMES G. AKERS, Plaintiff
Post Office Box 3648
Brentwood, Tennessee 37024
Telephone: 615/834-2843
Facsimile: 615/831-9307

STATE OF TENNESSEE)
) **ss.**
COUNTY OF DAVIDSON)

THIS IS TO CERTIFY that the hereinabove James G. Akers has personally appeared before me on this, the 21st day of September, 2001, has acknowledged the foregoing, and subscribed his signature thereto in my presence.

s/ Sherrie F. Hicks
NOTARY PUBLIC, State-at-large

My Commission Expires: 03/26/2005

CERTIFICATE OF SERVICE

COMES THE AFFIANT, Dorothy M. Mackin, and hereby certifies that: (1) I am not a party to the civil action styled "JAMES G. AKERS, Plaintiff, V. CAROLYN P. BISHOP, et al, Defendants."; (2) I am a citizen of the United States of America and State of Tennessee therein; (3) I am over the age of 21; (4) to the best of my knowledge, information, and belief, I am qualified to execute service of process on behalf of Plaintiff James G. Akers; and (5) I have, on the date last written and notarized hereinbelow, served a true and complete copy of the foregoing "NOTICE OF APPEAL" together with the accompanying "CERTIFICATE OF GOOD FAITH" via "UNITED STATES MAIL-FIRST CLASS", postage prepaid, in the manner as follows: **(Listing of served Parties and/or respective Counsel of Record omitted from instant Petition for Writ of Certiorari. See official record for listings.)**

s/ Dorothy M. Mackin
DOROTHY M. MACKIN,
c/o Post Office Box 3648
Brentwood, Tennessee 37024

STATE OF TENNESSEE)
) **ss.**
COUNTY OF DAVIDSON)

THIS IS TO CERTIFY that the hereinabove Dorothy M. Mackin has personally appeared before me on this, the 21st day of September, 2001, has acknowledged the foregoing, and subscribed her signature thereto in my presence.

s/ Sherrie F. Hicks
NOTARY PUBLIC, State-at-large
My Commission Expires: 03/26/2005

[END OF DOCUMENT]

FILED
NOV 1 2001
LEONARD GREEN, Clerk

C.O.A. CASE NUMBER: 01-6243
IN THE UNITED STATES COURT OF
APPEALS FOR THE SIXTH CIRCUIT

JAMES G. AKERS, Plaintiff-Appellant,	)
v.	) APPELLANT'S RESPONSE) TO: MOTION OF APPELLEE,) JERRY L. KELLY, TO DISMISS
CAROLYN P. BISHOP; et al, Defendants-Appellees.	) APPEAL

ON APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF TENNESSEE - NASHVILLE DIVISION

COMES THE PLAINTIFF-APPELLANT, James G. Akers (hereinafter "Akers'), **without counsel**, and, in strict accordance with Title 28 U.S.C. § 1654 in conjunction with U.S.C.A.6 Combined Rule 27(e) of the Federal Rules of Appellate Procedure, files with this Honorable Court the hereinafter "**RESPONSE**" to the "MOTION OF APPELLEE, JERRY L. KELLY, TO DISMISS THE APPEAL FOR LACK OF JURISDICTION" as filed and served on October 23, 2001.

(1) In his latest desperate attempt to escape his formidable liabilities as detailed in Akers' "CIVIL ACTION PURSUANT TO: TITLE 18 U.S.C. § 1964(c); TITLE 42 U.S.C. § 1983; & TITLE 42 U.S.C. § 1985(3)" as filed in United States District Court for the Middle District of...

Tennessee, Nashville Division, on November 21, 2000,[1] the Defendant-Appellee Jerry L. Kelly (hereinafter "Kelly") purports that Akers' appeal to this Honorable Court should be "dismissed" on grounds that this Court lacks jurisdiction pursuant to provisions of Title 28 U.S.C. § 1291. Kelly further cites the "treatise" set forth in 17 Moore's Federal Practice § 111.60[1] as authority for his position.

(2) Kelly's ill-timed "Motion" misapprehends these alleged "authorities" in context with the "Collateral Order Doctrine" as set forth in **Clemence v. Clemence, 8 Kan.App.2d 377, 658 P.2d 368 (1983)**, i.e., "'Collateral order' doctrine allows appeal from interlocutory order which conclusively determines issue completely separate from merits of action, and which cannot be given effective review on appeal from subsequent final judgement; such order is, for purposes of appellate jurisdiction, 'final order'"; **Firestone Tire & Rubber Co. v. Risjord, 101 S.Ct. 669, 66 L.Ed.2d 571 (1981)**, i.e., "Because the litigation from which the instant petition arises had not reached final judgement at the time the notice of appeal was filed, the order...is appealable under § 1291 **only if it falls within the *Cohen* doctrine**." (emphasis added); **Abney v. United States, 97 S.Ct. 2034, 52 L.Ed.2d 651 (1977)** at FN4, i.e., "Of course, Cohen's **collateral-order exception** is equally applicable in both civil and criminal proceedings." (emphasis added); and **Armstrong v. McAlpin, 625 F.2d 433, C.A.N.Y. (1980)**, citing **Cohen v. Beneficial Loan Corp., 337 U.S. 541, 545-47, 69 S.Ct. 1221, 1225-26, 93 L.Ed. 1528 (1949)** in which the Supreme Court held that "...certain orders were **immediately appealable** (1) if they were collateral to the merits; (2) if denial of an immediate appeal would result in irreparable damage...

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[1] See Docket Entry #78 (excerpts appended hereto, as Exhibit "A1", for convenience of the Court).

to the party seeking review; and (3) if the issue raised was "too important" to "be deferred until the whole case is adjudicated."

(3) There are a number of issues and factual allegations contained within Akers' pleadings in the instant case which make it abundantly clear that this appeal "falls squarely within" the "Collateral Order Doctrine" and "Cohen Doctrine" exceptions to Title 28 U.S.C. § 1291, e.g.:

> (a) There can be no question that the "ORDER" from which Akers appeals addresses issues which are "collateral to the merits" of Akers' case;
>
> (b) There can, as well, be no question whatsoever that "denial of an immediate appeal would result in irreparable damage" to Akers inasmuch as it is absurd to allege that Akers can receive a fair adjudication before a jury comprised of citizens of the Federal District of Eastern Kentucky at Lexington. That has been conclusively shown in Akers' two (2) criminal trials in Fayette [Kentucky] Circuit Court. To now require Akers to return to that jurisdiction to seek redress would be the equivalent of requiring the victims of the September 11, 2001, terrorist attacks to seek redress in Afghanistan, and before a jury comprised of Taliban loyalists. Additionally, in view of the heretofore overt acts by the Defendants-Appellees which gave rise to Akers' claims herein, there can be no reasonable doubt that those same Defendants-Appellees would reserve no opportunity to further imprison Akers by some other fraudulent means in order to prevent this case from proceeding. The Federal Courts would, once again, be powerless to intervene without extensive litigation and further drain on Akers' resources, liberty, and effectiveness in obtaining justice. It is just, simply, now impossible for Akers to ever return to the jurisdiction of the Defendants-Appellees and for the Federal Courts to so require would...

amount to a fundamental miscarriage of justice in addition to effectively granting a dismissal of Akers' claims; &

(c) Finally, there can be no question whatsoever that the issues raised hereinabove and, especially, with respect to the venue in which this case proceeds to trial are "too important" to "be deferred until the whole case is adjudicated." if any respect whatever for the Constitutional, Statutory, and common laws of the United States of America is to be rendered.

WHEREFORE, the Plaintiff-Appellant, James G. Akers, **without counsel**, respectfullly asks and prays of this Honorable Court to "**DENY**" the "MOTION OF APPELLEE, JERRY L. KELLY, TO DISMISS THE APPEAL FOR LACK OF JURISDICTION" and permit this case to proceed through the orderly appellate process as currently scheduled.

Respectfully submitted,

s/ James G. Akers
JAMES G. AKERS, Plaintiff-Appellee

Post Office Box 3648
Brentwood, Tennessee 37024

4708 Trousdale Drive
Nashville, Tennessee 37220

Telephone: 615/834-2843
Facsimile: 615/831-9307

CERTIFICATE OF SERVICE

COMES THE AFFIANT, Dorothy M. Mackin, and hereby certifies that: (1) I am not a party to the civil action styled "**JAMES G. AKERS, Plaintiff-Appellant, v. CAROLYN P. BISHOP, et al, Defendants-Appellees.**"; (2) I am a **citizen** of the **United States of America** and the **State of Tennessee** therein; (3) I am over the age of 21; (4) to the best of my knowledge, information, and belief, I am duly qualified to execute service of process on behalf of Plaintiff James G. Akers; and (5) I have, on the date last written and notarized hereinbelow, served a true, accurate, and complete copy of the foregoing "**RESPONSE**" to the "MOTION OF APPELLEE, JERRY L. KELLY, TO DISMISS THE APPEAL FOR LACK OF JURISDICTION" via "**UNITED STATES MAIL-FIRST CLASS**", on the Defendants-Appellees named therein and/or their legal counsel as follows: **(Listing of served Parties and/or respective Counsel-of-Record omitted from instant Petition for Writ of Certiorari. See official record for listings.)**

s/ Dorothy M. Mackin
DOROTHY M. MACKIN,
c/o Post Office Box 3648
Brentwood, Tennessee 37024

STATE OF TENNESSEE)
) **ss.**
COUNTY OF DAVIDSON)

THIS IS TO CERTIFY that the hereinabove Dorothy M. Mackin has personally appeared before me on this, the 30th day of November, 2001, has acknowledged the foregoing, and subscribed her signature thereto in my presence.

s/ Anita J. Burke
NOTARY PUBLIC, State-at-large
My Commission Expires: 09/24/04

[END OF DOCUMENT]

F I L E D
U.S. DISTRICT COURT
MIDDLE DISTRICT OF TENN.

NOV 21 2000

BY _____
DEPUTY CLERK

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE
AT NASHVILLE

JAMES G. AKERS, Plaintiff,	) FILE NUMBER: 3:00cv1142) JUDGE ECHOLS
v.	) **MEMORANDUM &**) **MEMORANDUM OF LAW**
CAROLYN P. BISHOP; *et al*, Defendants.	)

COMES THE PLAINTIFF, James G. Akers, **without counsel**, and, in strict accordance with provisions of **TITLE 28 U.S.C. § 1654,** files with this Honorable Court the hereinafter "MEMORANDUM & MEMORANDUM OF LAW" in further support of the accompanying and contemporaneously-filed civil action pursuant to **TITLE 18 U.S.C. § 1964(c)**, **TITLE 42 U.S.C. § 1983**, & **TITLE 42 U.S.C. § 1985(3)**.

A. INTRODUCTION

1. On August 25, 1993, just two (2) months preceding the twenty-fifth (25th) anniversary of his marriage to Defendant Carolyn P. Bishop (nee Carolyn J. Patrick, then Carolyn P. Akers, now Carolyn P. Bishop, and referred to hereinafter as "Bishop"), the Plaintiff, James G. Akers (hereinafter "Akers") was awarded a sizeable cash settlement on behalf of Coleman/...

Akers & Akers, Incorporated (hereinafter "C/AA"), a Kentucky corporation owned an operated by Akers and based in the Lexington, Kentucky, area. The series of outrageous events which have transpired thereafter, and as set forth hereinafter in detail, have been such that should shock the very conscience of any responsible citizen of a free and democratic society in the modern world.

2. In a manner strikingly similar to historical accounts of colonial Salem, Massachusetts; "Nazi" Germany; and "cold war era" Soviet Bloc countries, Defendant Bishop and her hereinafter named co-conspirators have devised, effectuated, and perpetuated schemes to unlawfully seize, withhold, divert, and convert the property of Akers with intent to deprive him thereof; to unlawfully circumvent and/or abridge all of Akers' inalienable and lawful rights pursuant to, ***inter alia***, **Article I-Sections 9 & 10, Article III-Section 2, Article IV-Section 2**, and the **First, Fourth, Fifth, Sixth, Eighth, Thirteenth**, and **Fourteenth Amendments** of/to the **United States Constitution** and, in both overt and covert concealment of those said schemes, to oppressively deprive Akers of his liberty in such a manner as is hereinafter set forth in detail. Those said schemes and actions of and/or by the named herein Defendants **have not been limited** to "civil rights violations" under "color of state law", "color of office", and/or "malicious prosecution" but extend, in fact, to **criminal acts** in blatant and direct violationof the Federal Laws as are hereinafter enumerated.

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3. As will be hereinafter shown, in detal, the Plaintiff Akers was: (a) **assaulted, decoyed, inveigled, and robbed** in May and June of 1994 and, in the covert concealment thereof, was; (b) **unlawfully imprisoned** in May and July of 1994 and, in covert concealment thereof; (c) **blackmailed and/or extorted** from July of 1994 through March of 1995, and in further concealment thereof, was; (d) **essentially "kidnapped" and fraudulently held** in Nashville, Tennessee, during August and September, 1995, and, in the covert concealment thereof, was;

(e) **fraudulently extradited** back to Kentucky in October of 1995 and, in the **further concealment** of the hereinbefore schemes, was; (f) **fraudulently and maliciously accused, prosecuted, convicted, and then imprisoned** in custody of the Fayette County [Kentucky] Sheriff and/or Kentucky Department of Corrections from May 22, 1996, to April 15, 1998, until; (g) Akers was released from custody on a $52,000 Full Cash Bond pursuant to an "Opinion and Order", as rendered February 27, 1998, by the Kentucky Court of Appeals, which ruled that Akers' convictions and resulting imprisonment had been unlawfully achieved.

4. In the further concealment of those said schemes of/by the Defendants, and as an **intentional and continuing course of conduct** by them, Akers was: (a) **further blackmailed/extorted** in March of 1998; was (b) **further** oppressively imprisoned in April of 1998; was (c) **further blackmailed and/or extorted** from April through October of 1998, and then; (d) **yet again, oppressively and unlawfully prosecuted, convicted, and then**...

-3-

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imprisoned for the **very same unconstitutional and fraudulent felony charges**, pursuant to the **very same unconstitutional and fraudulent indictment**, as was the case in May of 1996.

5. Following Akers' additional unlawful, oppressive, and unconstitutional imprisonment since October 28, 1998, the Court of Appeals of Kentucky rendered Its **second** "Opinion" on May 19, 2000, in which It reversed (in part) Akers' convictions **for the second time** and ruling, in hereunto relevant part, as follows:

> **"It is clear that the trial court failed to follow our instructions on remand";**
>
> **"The court heard arguments as to the admissibility of the evidence. Prior to making its ruling, the court acknowledged that it had not read our decision";**
>
> **"Without reading our decision, the court could not have**

followed our directives";

"While our opinion did not specifically so require, the trial court should have granted Akers separate trials on each count";

"By not holding separate trials, the trial court abused its discretion and denied Akers a fair trial...";

"Fairness and justice require us to reverse his (Akers') **conviction..."** (emphasis added)

6. Akers is **not** an attorney, and **does not** have any formal training or education in the Law. Having been forced to expend **vast resources** in defense of the hereinafter enumerated unlawful acts committed by the named Defendants, and ancillary expenses related thereto, Akers can no longer afford, nor will he seek, further assistance and/or counsel of attorneys with respect to the matters set forth herein.

B. STATEMENT OF PURPOSE AND INTENT

1. The purpose(s) and intent of the within "MEMORANDUM & MEMORANDUM OF LAW" are to: (a) expose, disclose, encapsulate, and memorialize the events leading up to, contemporaneous with, and resulting from, certain criminal prosecutions depicted as: "Commonwealth of Kentucky vs. James G. Akers" under "Indictment No. 95-CR-984"; (b) to expose and/or disclose **the truth** with respect to all issues addressed and/or raised therein; (c) to apply both the **Constitutional and Statutory Laws** of the **United States of America** as they relate thereunto those said events, criminal prosecutions, and related matters; and (d) to serve as a "foundation" for the numerous avenues for redress which Plaintiff Akers is now **forced to pursue** in ultimate resolution of said criminal prosecutions and related matters thereto.

C. CITATION OF AUTHORITIES

UNITED STATES CONSTITUTION

ARTICLE I-SECTION 9: [1.] "The **migration** or importation of such persons as any of the states...shall think proper to admit, **shall not be prohibited**...; [2.] The privilege of the writ of habeas corpus **shall not be suspended**..."; [3.] "No bill of attainer or ***ex post facto* law**[1] shall be passed." (emphasis added)

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[1] "Ex post facto law" defined: "A law passed **after the occurrence of a fact or commission of an act**, which retrospectively changes the legal consequences or relations of such fact or deed." "A law is **unconstitutionally** "**ex post facto**" if it deprives a defendant of a defense to criminal liability that he had prior to enactment of the law. State v. Rogers, Ohio Com.Pl., 346 N.E.2d 352, 361. Art. I, § 9(CL3) and § 10 of U.S. Const. prohibit both Congress and the states from passing any ex post facto law. An ex post facto law is defined as a law which provides for the ..." (continued, page 6 hereof)

ARTICLE I-SECTION 10: [1.] "**No state shall...pass any** bill of attainer, ***ex post facto* law**[1], or law impairing the obligation of contracts, or grant any title of nobility." (emphasis added)

ARTICLE III-SECTION 2: [1.] "The judicial power shall extend to all cases, **in law or equity**, arising under this constitution, the laws of the United States...; ...between citizens of different states; [3.] "The trial of **all crimes** ...shall be held...**in the state where the said crimes shall have been committed**"; (emphasis added)

ARTICLE IV-SECTION 2: [1.] "The citizens of each state shall be entitled to **all privileges and immunities** of citizens in the several states"; [2.] "A person charged **in any state** with...felony, or other crime, **who shall flee from justice**, and be found in another state, shall...be delivered up, to be removed to the state having jurisdiction of the crime."[2] (emphasis added)

---

[1] "Ex post facto law" defined (cont'd from page 5 hereof): "...infliction of punishment upon a person for an act done which, when it was committed, was innocent; **a law which aggravates a crime or makes it greater than when it was committed; a law that changes the punishment or inflicts a greater punishment than the law annexed to the crime when it was committed; a law that changes the rules of evidence** and receives less or different testimony than was required at the time of the commission of the offense in order to convict the offender; **a law which deprives persons accused of a crime of some lawful protection to which they have become entitled**, such as protection of a former conviction or acquittal...; **every law which**, in relation to the offense or consequences, **alters the situation of a person to his disadvantage**. Wilensky v. Fields, Fla., 267 So.2d 1, 5." [Black's Law Dictionary, Sixth Edition, 12th Reprint-1998 (emphasis added)]

[2] "**Interstate extradition** involves a significant restraint of liberty and, as such, **necessitates a showing of probable cause**." **Wellington v. State of S.D., D.C.S.D.1976, 413 F.Supp., 151**. (emphasis added) See Also: **Walton v. State, 1977, 566 P.2d 765, 98 Idaho 422**; "**Probable cause** to find that a person to be extradited is a **fugitive from justice** in demanding state is a **condition precedent to valid extradition**." **Ross v. Hegstrom, 1969, 254 A.2d 556, 107 Conn. 403** (emph. added); "**In determining whether a party named in a requisition and rendition warrant is a fugitive from justice, a finding must be made** in substance that a crime is alleged, **that the named party committed the crime and fled from the demanding jurisdiction, and it must appear that accused was within the demanding state when crime was committed** so as to constitute him a fugitive by his commission of crime and his **later flight**." **State v. Phillips, 1960,162 A.2d 113, 62 N.J.Super. 70, affirmed 167 A.2d 175, 34 N.J. 63** (emphasis added); "In extradition proceedings, inquiry is restricted to whether accused is substantially charged with crime in the demanding state, **and whether he**..." (continued, page 7 hereof)

FIRST AMENDMENT: "Congress shall make no law respecting...religion, or prohibiting the free exercise thereof; **or abridging freedom of speech...**; [or the right to] petition the government for **redress of grievances**"; (emphasis added)

FOURTH AMENDMENT: "The right of the people to be secure in their **persons**, houses, papers, and effects, against unreasonable searches and **seizures**, shall not be violated, and **no Warrants shall issue, but upon probable cause**"[2]; (emphasis added)

FIFTH AMENDMENT: "No person shall **be held** to answer for ...infamous crime, **unless on a presentment or indictment**[3] of a...

---

[2] "**Interstate extradition**" (continued from page 6 hereof): "...**was physically in the demanding state at time crime charged is alleged to have been committed.**" **People v. ex rel. Johnson v. Ruthazer, 1951, 102 N.Y.S.2d 39, 198 Misc. 1044, affirmed 105 N.Y.S.2d 394, 278 App.Div. 905** (emph. added); **Clayton v. Wichael, 1966, 141 N.W. 2d 538, 258 Iowa 1037; Wigehert v. Lockhart, 1946, 166 P.2d 988, 114 Colo. 485; Ex parte Foster, 1936, 61 P.2d 37, 60 Okla.Cr. 50**; "**No person may be lawfully removed from one stateto another** by virtue of this [Sec. 2, cl. 2], **unless ...; 2. He has fled from justice**; ..., and if **either of these conditions are absent, the Constitution affords no warrant for** a restraint of the liberty of **any person.**" **Pierce v. Creecy, Mo. 1908, 28 S.Ct. 714, 210 U.S. 387, 52 L.Ed. 1113; Ex parte Morgan, D.C.Cal. 1948, 78 F.Supp. 756, affirmed 175 F.2d 404, certiorari denied 70 S.Ct. 76, 338 U.S. 827, 94 L.Ed. 503**; "**Under this [Sec. 2, cl. 2] and Federal Extradition Act, 18 U.S.C.A.** former § 662 [now **§§ 3182, 3195**], **an extradition is unwarranted unless the accused is a fugitive from justice, and a 'fugitive from justice' is a person who commits a crime within a state and withdraws himself from such jurisdiction** without waiting to abide the consequences of his act". **Ex parte Montoya, 1943, 135 P.2d 281, 170 Or. 499.** (emphasis added)

[3] "**Presentment**" defined: "A presentment is an accusation, **initiated by the grand jury itself**, and in effect is an instruction that an indictment be drawn. U.S. v. Briggs, C.A.Fla., 514 F.2d 794, 804. A written accusation of crime **made and returned by the grand jury upon its own initiative** in the lawful exercise of its lawful inquisitorial powers, is in the form of a bill of indictment, and in practice is signed individually by all the grand jurors who return it. State v. Hudson, Tenn.Cr.App., 487 S.W.2d 672, 674"; "**Indictment**" defined: "An accusation in writing **found and presented by a grand jury, legally convoked and sworn**, ...charging that a person therein named has done some act, or been guilty of some ommission, which by law is a public offense, punishable on indictment. A formal written accusation originating with a prosecutor and **issued by a grand jury** against a party charged with a crime." [Black's Law Dictionary, Sixth Edition, 12th reprint-1998 (emphasis added)]

Grand Jury, **nor shall any person be subject for the same offence to be twice put in jeopardy** of life or limb"[4]; ...**nor be deprived of**...**liberty**, or property, **without due process of law**"[5];

(emphasis added)

SIXTH AMENDMENT: "In **all criminal prosecutions**, the accused shall enjoy the right to a speedy and public trial, **by an impartial jury** of the **State...wherein the crime shall have been committed**..., to be informed of the nature...of the accusation; and...to have compulsory process for obtaining witnesses in his favor"; (emphasis added)

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[4] **See also: North Carolina v. Pearce, 89 S.Ct. 2089 (1969)**, i.e., "[727]...The theory of double jeopardy is that a person need run the gantlet only once. The gantlet is the **risk of range of punishment** which the State...imposes for that particular conduct. He risks the **maximum permissible punishment when first tried**. **That risk having been faced once** need not be faced again. **And the fact that he takes**..." (continued, page 9 hereof)

[5] **"Due process of law" defined**: "Law in its regular course of administration through courts of justice. ...Due process of law implies the right of the person affected thereby to be present before the tribunal which pronounces judgement upon the question of life, liberty, or property, in its most comprehensive sense; to be heard, by testimony or otherwise, and to have the right of controverting... every material fact which bears on the question of right in the matter involved. **If any question of fact or liability be conclusively presumed against him, this is not due process of law**. An orderly proceeding wherein a person is **served with notice**, actual or constructive, and **has an opportunity to be heard and to enforce and protect his rights** before a court having power to hear and determine the case. ...**The concept of 'due process of law' as it is embodied in the Fifth Amendment demands that a law shall not be unreasonable, arbitrary, or capricious**... U. S. v. Smith, D.C. Iowa, 249 F.Supp. 515, 516. Fundamental requisite of 'due process' is the opportunity to be heard, to be aware that a matter is pending, to make an informed choice whether to acquiesce or contest... Trinity Episcopal Corp. v. Romney, D.C.N.Y., 387 F.Supp. 1044, 1084. **Aside from all else, 'due process' means fundamental fairness and substantial justice**. Vaughn v. State, 3 Tenn. Crim. App. 54, 456 S.W.2d, 879, 883. Embodied in the due process concept are the basic rights of a defendant in criminal cases and the requisites for a fair trial. These rights and requirements have been expanded by Supreme Court decisions and include, timely notice of a hearing or trial which informs the accused of the charges against him or her; **the opportunity to confront accusers and to present evidence on one's own behalf before an impartial jury or judge**; the presumption of innocence under which **guilt must be proven** by legally obtained evidence and **the verdict must be supported by the evidence presented**; ...and **the guarantee that an individual will not be tried more than once for the same offense (double jeopardy)**." [Black's Law Dictionary, Sixth Edition, 12th Reprint-1998 (emphasis added)]

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[4] **North Carolina v. Pearce** (continued from page 8 hereof): "...**an appeal does not waive his constitutional defense of former jeopardy to a second prosecution**. Green v. United States, 355 U.S. 184, 191-193, 78 U.S.Ct. 221, 225, 227, 2 L.Ed. 2d 199. ...It is argued that this case is different because there were two different crimes with different punishments for each one. That, however, is a matter of semantics. 'It is immaterial to the basic purpose of the constitutional provision against double jeopardy whether the Legislature divides a crime into different degrees carrying different punishments, or [728] allows the court or jury to fix different punishments for the same crime'. People v. Henderson, 60 Cal. 2d 482, 497, 35 Rptr. 77, 86, 386 P.2d 677, 686 (1963) (Traynor, J.) ...'It was established at an early date that the Fifth Amendment was designed to prevent an accused from [729] **running the risk of 'double punishment'**. United States v. Ewell, 383 U.S. 116, 124, 86 S.Ct. 773, 778, 15 L.Ed.2d 627. When Madison introduced to the First Congress his draft of what became the Double Jeopardy Clause, it read: 'No person shall be subject, except in cases of impeachment, to *more than one punishment* or one trial for the same offense * * *' (Emphasis supplied) 1 Annals of Cong. 434. ...'By forbidding that no person shall be subject for the same offense to be twice put in jeopardy of life or limb, [the safeguard of the Fifth Amendment against double punishment] guarded against the repitition of history by * * * punishing [a man] for an offense when he had already suffered the punishment for it.' Roberts v. United States, 320 U.S. 264, 276, 64 S.Ct. 113, 119, 88 L.Ed. 41, (Frankfurter, J., dissenting). 'The inquiry, then, is into the meaning of 'double' or 'multiple' punishment. In Ex parte Lange, 18 Wall. 163, 21 L.Ed. 872, the petitioner...[730]...had **already suffered complete punishment for his crime and could not be subjected to further sanction**: 'If there is anything settled in the jurisprudence of England and America, it is that **no man can be twice lawfully punished for the same offence**.' And though there have been some nice questions in the application of this rule to cases in which the act charged was such as to come within the definition of more than one statutory offence, there has never been any doubt of its entire and complete protection of the party when a second punishment is proposed in the same court, on the same facts, for the same statutory offence.' *Id.* at 168. ...It was not until United States v. Benz, 282 U.S. 304, 51 S.Ct. 113, 75 L.Ed. 354, that the Court clarified its position. ...'The general rule is that judgements, decrees and orders are within the control of the court during the term in which they were made. * * * The rule is not confined to civil cases, but applies to criminal [731] cases as well, *provided that the punishment not be augmented*, Ex parte Lange, 18 Wall. 163, 167-174, 21 L.Ed. 872 [additional citations ommitted]. In the present case the power of the court was exercised to mitigate the punishment, not to increase it, and thus brought within the limitation. * * * ...[733] The ban on double jeopardy has its deep roots in the history of occidental jurisprudence. 'Fear and abhorrence of government power to try people twice for the **same conduct** is one of the oldest ideas found in western civilization.' Bartkus v. Illinois, 359 U.S. 121, 151-155, 79 S.Ct. 676, 3

L.Ed.2d 684 (Black, J., dissenting). And its purposes are several. **It prevents the State from using the criminal process as an instrument of harrassment to wear the accused out** by a multitude of cases with accumulated trials. Abbate v. United States, 359 U.S. S.Ct. 666, 672-673, 3 L.Ed.2d, 72..." (continued, page 10 hereof)

EIGHTH AMENDMENT: "**Excessive bail** shall not be required, ...nor...**unusual punishments** inflicted"; (emphasis added)

THIRTEENTH AMENDMENT: "Neither slavery nor **involuntary servitude**, except as punishment for crime whereof the party shall have been **duly convicted**, shall exist within the United States or **any place** subject to their jurisdiction"; (emphasis added)

FOURTEENTH AMENDMENT: "**All persons** born or naturalized in the United States, and subject to the jurisdiction thereof, are **citizens of the United States** and of the **State wherein they reside. No State** shall make or enforce **any law** which shall abridge the privileges or immunities of citizens of the United States; **nor shall any state deprive any person of life, liberty, or property, without due process of law**; nor...

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[4] **North Carolina v. Pearce** (continued from page 9 hereof): "...'The vice [735] of this procedure lies in relitagating the **same evidence** before two different juries with a man's innocence or guilt at stake'. ...'**Harrasment of an accused by successive prosecutions**...so as to afford the prosecution a more favorable opportunity to convict are examples when jeopardy attaches. Downum v. United States, 372 U.S. 734, 736, 83 S.Ct. 1033, 1034, 10 L.Ed.2d 100. ...'**This case presents an instance of the prosecution being allowed to harrass the accused with repeated trials and convictions on the same evidence**, until it achieves its desired result...' Ciucci v. Illinois, 356 U.S. 571, 573, 78 S.Ct. 839, 840, 2 L.Ed.2d 983. ...Manifestly it is not the danger of jeopardy of being a second time found guilty. It is the **punishment** that would legally follow the second conviction which is the real danger guarded against by the Constitution. ...It is doubtless true that the State has an interest in adjusting sentences upward [737] when it discovers new evidence warranting that result. But **the individual has an interest in remaining free of double punishment**. And in weighing those interests against one another, **the Constitution has decided the matter in favor of the individual**. See United States v. Tateo, 377 U.S. 463, 475, 84 S.Ct. 1587, 1594, 12 L.Ed.2d, 448" (emphasis added); **See also**: **Menna v. New York**, **423**

U.S. 61, 96 S.Ct. 241, 46 LEd(2d) 195 (1975), i.e., "Where the State is precluded by the United States Constitution from haling a defendant into court on a charge, **federal law requires that conviction to be set aside even if the conviction was entered pursuant to a counseled plea of guilty**" (emphasis added); **Abney v. United States, 431 US 651, 97 SCt, 52 LEd(2d) 651 (1977)**, i.e., "Double jeopardy clause protects an individual against more than being subjected to double punishments; **it is a guarantee against being twice put to trial for the same offense**. U.S.C.A. Const. Amend. 5" (emphasis added); and **Fourteenth Amendment to the United States Constitution** [pages 10 & 11 hereof], i.e., "**No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; ...nor deny any person within its jurisdiction equal protection of the laws**". (emphasis added)

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deny any **person within its jurisdiction equal protection of the laws**"[6]; (emphasis added)

UNITED STATES CODES ANNOTATED

TITLE 18 U.S.C. § 2. Principals: (a) Whoever **commits** an offense against the United States or **aids, abets, counsels**, commands, **induces, or procures** its commission, **is punishable as a principal**. (b) Whoever willfully causes an act to be done which if directly performed by him or another would be an offense against the United States, is punishable as a principal. (emphasis added)

TITLE 18 U.S.C. § 3. Accessory after the fact: Whoever, knowing that an offense against the United States has been committed, **receives, relieves**, comforts **or assists** the offender in order to hinder or prevent his apprehension, trial or punishment, **is an accessory after the fact**. (emphasis added)

TITLE 18 U.S.C. § 4. Misprison of felony: Whoever, **having knowledge** of the actual commission of a felony cognizable by a court of the United States, **conceals and does not as soon as possible make known the same** to some judge or other person in civil or military authority under the United States, shall be fined under this title or imprisoned not more than three years or both. (emphasis added)

TITLE 18 U.S.C. § 5. United States defined: The term "United States", as used in this title in a territorial sense,

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[6] "Equal protection of the law" defined: **"The constitutional guarantee of "equal protection of the law" means that no person or class of persons shall be denied the same protection of the laws...in their lives, liberty, prop-erty, or in their pursuit of happiness.** People v. Jacobs, 27 Cal.App.3d 246, 103 Cal.Rptr. 536, 543; 14th Amend., U.S. Const. ...**The equal protection of the laws of a state is extended to persons within its jurisdiction...with like rules of evidence and modes of procedure, for the security of their persons and property, the prevention and redress of wrongs, and the enforcement of contracts; ...when no different or greater punishment is enforced against them for a violation of the laws."** See also: **"Equal protection clause", i.e., "That provision of the 14th Amendment to U.S. Constitution which prohibits a State from denying any person within its jurisdiction the equal protection of the laws. This clause requires that persons...be given equal protection** in the enjoyment of personal rights and the prevention **and redress of wrongs."** [Black's Law Dictionary, Sixth Edition, 12th Reprint-1998 (emphasis added)]

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includes **all places** and waters, continental or insular, **subject to the jurisdiction of the United States**, except the Canal Zone. (emphasis added)

TITLE 18 U.S.C. § 873. Blackmail: Whoever, **under threat** of informing, or as a consideration for not informing, against any law of the United States, **demands...any money or other valuable thing**, shall be fined under this title or imprisoned not more than one year, or both. (emphasis added)

TITLE 18 U.S.C. § 875. Interstate communications: (d) Whoever, **with intent to extort** from any person, firm, association, or corporation, **any money or other thing of value, transmits in interstate** or foreign commerce **any communication** containing any threat to injure the property **or reputation** of... another...**or any threat to accuse...any other person of a crime**, shall be fined under this title or imprisoned not more than two years, or both. (emphasis added)

TITLE 18 U.S.C. § 876. Mailing threatening communications: Whoever, **with intent to extort** from any person **any money or other thing of value**, knowingly so deposits or causes to be delivered, as aforesaid, **any communication**, with or without a name or designating mark subscribed thereto, addressed to any other person **containing**

any threat to accuse...any other person of a crime, shall be fined under this title or imprisoned not more than two years, or both. (emphasis added)

TITLE 18 U.S.C. § 1201. Kidnapping: (a) Whoever, unlawfully **seizes, confines, inveigles, decoys, kidnaps, abducts, or carries away and holds** for ransom or reward **or otherwise** any person, except in the case of a minor by the parent thereof, when -- (1) the person is **willfully transported in interstate commerce**; (2) any such act against the person is done within the special maritime jurisdiction of the United States; (b) With respect to subsection (a)(1) above, the failure to release the victim within twenty-four hours after he shall have been unlawfully seized, confined, inveigled, decoyed, kidnapped, abducted, or carried away shall create a rebuttable presumption that such person has been transported in interstate or foreign commerce. (c) **If two or more persons conspire to violate this section** and one or more of such persons do any covert act to effect the object of the conspiracy, each shall be punished by imprisonment for any term of years or for life. (emphasis added)

TITLE 18 U.S.C. § 1203. Hostage taking: (a) Except as provided in subsection (b) of this section, whoever, whether inside or outside the United States, seizes or detains and threatens...to continue to detain another person in order to...

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compel a third party to do or abstain from doing any act **as an** explicit or implicit condition for the release of the person detained, or attempts **or conspires to do so**, shall be imprisoned for any term of years or for life and, if the death of any person results, shall be punished by death or life imprisonment. (emphasis added)

TITLE 18 U.S.C. § 1341. Frauds[7] and swindles: Whoever, **having devised or intending to devise** any scheme or artifice to defraud, **or for obtaining money or property by means of false or fraudulent pretenses, ...or attempting so to do**, places in any post office or authorized depository for mail matter, **any matter or thing whatever** to be sent or delivered by

the Postal Service, or deposits or causes to be deposited any matter or thing whatever to be **sent or delivered by any private** or commercial interstate carrier, or takes or receives therefrom, any such matter or thing, **or knowingly causes to be delivered** by such carrier according to the direction thereon, or at the place at which it is directed to be delivered to the person to whom it is addressed, **any such matter or thing**, shall be fined under this title or imprisoned not more than five years, or both. (emphasis added)

TITLE 18 U.S.C. § 1503. Influencing or injuring officer or juror[8] generally: (a) Whoever **corruptly...endeavors to influence or impede any grand or petit juror**, or officer in or of any court of the United States, ...**or endeavors to influence, obstruct, or impede, the due administration of justice**, shall be punished as provided in subsection (b). (emphasis added)

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[7] "Fraud" defined: "A **false representation of a matter of fact**, whether by words or by conduct, **by false or misleading allegations, or by concealment of that which should have been disclosed**, which deceives and is intended to deceive another so that he shall act upon it to his legal injury; ...A generic term, embracing all multifarious means which human ingenuity can devise, ...to get advantage over another by false suggestions or **by suppression of the truth**...; As distinguished from negligence, **it is always positive, intentional**. It comprises **all acts, omissions, and concealments** involving a breach of a legal **or equitable duty and resulting in damage to another**. And includes **anything calculated to deceive**, whether it be a single act **or combination of circumstances**, whether the **suppression of truth or the suggestion of what is false**, whether it be direct falsehood or by innuendo, by speech or **by silence**, by word of mouth, **or by look or gesture**. [Black's Law Dictionary, Abridged Sixth Edition, 8th reprint-1988]

[8] **See also**: "**Tampering with jury**": "...The act of attempting to influence a juror corruptly by...persuasions, entreaties, ...or **any other means** except the production of evidence in open court. *See e.g.* 18 U.S.C.A § 1503, 1504." [Black's Law Dictionary, Abridged Sixth Edition, 8th reprint-1988]

TITLE 18 U.S.C. § 1512. Tampering[9] with a witness, victim, or an informant: (b) Whoever knowingly uses

intimidation...or corruptly persuades another person, **or attempts to do so**, or engages in misleading conduct toward another person, **with intent** to -- (1) **influence**, delay, **or prevent the testimony of any person** in an official proceeding; (2) **cause or induce any person to** -- (A) withhold testimony, or withhold a record, document, or other object from an official proceeding; (B) **alter**, destroy, **mutilate**, or conceal **an object with intent to impair the object's integrity** or availability in an official proceeding; shall be fined under this title or imprisoned not more than ten years, or both. (emphasis added)

TITLE 18 U.S.C. § 1961. Definitions: (1) "racketeering activity" means (A) **any act or threat** involving...kidnapping, ... robbery, bribery, extortion, ... or **which is chargeable under state law and punishable by imprisonment for more than one year**; (B) any act which is indictable under any of the following provisions of title 18, United States Code: ...section 1341 (relating to mail fraud), section 1343 (relating to wire fraud), ...section 1503 (relating to obstruction of justice); ...section 1512 (relating to tampering with a witness, victim, or an informant); (2) "State" means **any State** of the United States, the District of Columbia, the Commonwealth of Puerto Rico, **any territory** or possession of the United States, any political subdivision, or any department, agency, or instrumentality thereof; (3) "person" includes any individual, or entity capable of holding a legal or beneficial interest in any property; (4) "enterprise" includes any individual, partnership, corporation, association, or other legal entity, and **any union or group of individuals associated in fact** although not a legal entity; (5) "pattern of racketeering activity" **requires at least two acts** of racketeering activity, one of which occurred after the effective date of this chapter and at least one of which occurred within ten years after the commission of a prior act of racketeering activity; (emphasis added)

TITLE 18 U.S.C. § 1962. Prohibited activities: (a) It shall be unlawful for any person who has received any income derived, directly or indirectly, from a pattern of racketeering activity...in which such person has participated as a principal within the meaning of section 2, title 18, ...

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[9] "Tamper" defined: "To meddle so as to alter a thing, especially to make illegal, corrupting or perverting changes; as to tamper with a document or text; to interfere with improperly; ...To illegally change as to tamper with...a witness or victim (U.S.C.A. § 1503, et seq.)." [Black's Law Dictionary, Abridged Sixth Edition, 8th reprint-1988]

United States Code, **to use or invest, directly or indirectly, any part of such income**, in acquisition of any interest in, **or the activities of which affect**, interstate commerce; (d) It shall be unlawful for any person **to conspire** to violate any of the provisions of subsection (a), (b), or (c) of this section; (emphasis added)

TITLE 18 U.S.C. § 1964. Civil remedies: (c) **Any person injured in his business or property** by reason of a violation of section 1962 of this chapter may sue therefor in any appropriate United States district court and **shall recover threefold the damages he sustains** and the cost of the suit, including a reasonable attorney's fee...; (emphasis added)

TITLE 18 U.S.C. § 1965. Venue and process: (b) In any action under section 1964 of this chapter in any district court of the United States in which it is shown that the ends of justice equire that other parties residing in other districts be brought before the court, the court may cause such parties to be summoned, and process for that purpose may be served in any judicial district of the United States by the marshal thereof; (d) All other process in any action or proceeding under this chapter may be served in any judicial district in which the person resides, is found, has an agent, or transacts his affairs;

TITLE 18 U.S.C. § 2261. Interstate domestic violence: (a) **Offenses. - (1) Crossing a State Line.** - A person who **travels** across a State line...**with intent** to injure, harass, or intimidate that person's spouse or intimate partner, **and** who, in the course of or as a result of such travel, **intentionally commits a crime of violence and thereby causes bodily injury** to such spouse or intimidate partner, shall be punished as provided in subsection (b). (emphasis added)

TITLE 18 U.S.C. § 2261A. Interstate stalking: Whoever **travels** across a State line or within the...territorial jurisdiction of the United States **with the intent** to injure or harass another person, **and** in the course of, or as a result of, such travel places that person in reasonable fear of the death of, or serious bodily injury (as defined in section 1365(g)(3) of this title) to, that person or a member of that person's immediate family (as defined in section 115 of this title) shall be punished as provided in section 2261 of this title. (emphasis added)

TITLE 18 U.S.C. § 2262. Interstate violation of protection order: (a) Offenses. - (1) Crossing a State line. - A person who travels across a State line...with the intent to engage in conduct that - **(A)(i)** violates the portion of a protective order

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that involves protection against credible threats of violence, repeated harassment, or bodily injury to the person or persons for whom the protection order was issued; or (ii) would violate this paragraph if the conduct occurred in the jurisdiction in which the order was issued; **and (B) subsequently engages in such conduct**, shall be punished as provided in subsection (b). (emphasis added)

TITLE 18 U.S.C. § 2265. Full faith and credit given to protection orders: (a) Full faith and credit. - Any protection order issued **that is consistent with subsection (b) of this section** by the court of one State...(the issuing State...) shall be accorded full faith and credit by the court of another State ...(the enforcing State...) and enforced as if it were the order of the enforcing State... (b) Protection order. - A protection order issued by a State...**is consistent with this subsection if –** (1) such court has **jurisdiction over the parties** and matter under the law of such State...; **and** (2) **reasonable notice and opportunity to be heard is given** to the person against whom the order is sought sufficient **to protect that person's right to due process**. In the case of ex parte orders, **notice and opportunity to be heard must be provided** within the time required by State ...law, and **in any event within a reasonable time** after the order is issued,

sufficient **to protect the respondent's due process rights.** (emphasis added)

TITLE 28 U.S.C. § 1654: In all courts of the United States, **the parties may plead and conduct their own cases personally** or by counsel as, by the rules of such courts, respectively, are permitted to manage and conduct causes therein; (emphasis added)

TITLE 42 U.S.C. § 1983. Civil action for deprivation of rights: Every person who, **under color of any statute**, ordinance, custom, or usage, **of any State** or Territory or the District of Columbia, **subjects, or causes to be subjected, any citizen of the United States** or other person within the jurisdiction thereof **to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws**, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress; (emphasis added)

TITLE 42 U.S.C. § 1985. Conspiracy to interfere with civil rights: (2) If **two or more persons in any State** or Territory or the District of Columbia **conspire** to...influence the verdict, presentment, or indictment of any grand or petit jury..., or **if two or more persons conspire** for the purpose of impeding, hindering, obstructing, or defeating, **in any manner, the due course of justice in any State or Territory, with the intent to deprive any citizen...equal protection of the laws,** ...

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or to injure him or his property for lawfully enforcing, or **attempting to enforce**, the right of any person, or class of persons, to the equal protection of the laws; (3) ...**in any case of conspiracy**[10, 11, 12] set forth in this section, **if one or more persons** engaged therein **do, or cause to be done, any act in furtherance of the object of such conspiracy**, whereby another is injured in his person **or property, or deprived of having and exercising any right or privilege** of a citizen of the United States, the party so injured or deprived may have an action for the recovery of damages occasioned by such injury or deprivation, against one or more of the conspirators; (emphasis

added)

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[10] "Conspiracy" defined: "A combination or confederacy between two or more persons formed for the purpose of committing, by their joint efforts, some unlawful or criminal act, or **some act which is lawful in itself, but becomes unlawful when done by the concerted action of the conspirators**, or for the purpose of using criminal or unlawful means to the commission of an act in itself unlawful. A person is guilty of conspiracy with another person or persons to commit a crime if with the purpose of promoting or facilitating its commission he: (a) agrees with other such person that they or one or more of them will engage in conduct which constitutes such crime or an attempt or solicitation to commit such crime; or (b) agrees to aid such other person or persons in the planning or commission of such crime or of an attempt or solicitation to commit such crime. Model Penal Code, § 5.03. **A conspiracy may be a continuing one; actors may drop out, and others drop in**; the details of operation may change from time to time; the members need not know each other or the part played by others; a member need not know all the details of the plan or the operations; he must, however, know the purpose of the conspiracy and agree to become a party to a plan to effectuate that purpose. **There are a number of federal statutes prohibiting specific types of conspiracy**." [Black's Law Dictionary, Abridged Sixth Edition, 8th Reprint-1988 (emphasis added)]

[11] "*[Chain] Conspiracy*" defined: "Such a conspiracy is characterized by different activities carried on with same subject of conspiracy in chain-like manner that **each conpsirator in a chain-like manner performs a separate function which serves in the accomplishment of the overall conspiracy**." [Black's Law Dictionary, Abridged Sixth Edition, 8th Reprint-1988 (emphasis added)]

[12] "*[Civil] Conspiracy*" defined: "The essence of a 'civil conspiracy' is a concert or combination to defraud or cause other injury to person or property, which results in damage to the person or property of plaintiff." **See also**: **"[Civil] Conspiracy" further defined**: "A combination of two or more persons who, by concerted action, seek to accomplish an unlawful purpose or to accomplish some purpose, not in itself unlawful, by unlawful means." [Black's Law Dictionary, Abridged Sixth Edition, 8th reprint-1988 (emphasis added)]

CONSTITUTION OF TENNESSEE

ARTICLE 1, SECTION 3. Freedom of worship. - "That all men have a natural and indefeasible right to worship Almighty God to the dictates of their own conscience; that no man can of right be compelled to attend, erect, or support any place of worship, or to maintain any minister against his consent; **that no human authority can, in any case whatsoever, control or interfere with the rights of conscience**[13]; and that no preference shall ever be given to any religious establishment or mode of worship." (emphasis added)

ARTICLE 1, SECTION 8. No man to be disturbed by law. - "That **no man shall be taken or imprisoned, or disseized of his freehold, liberties or privileges**, outlawed, **or exiled or in any manner destroyed or deprived of his life, liberty, or property, but by the judgement of his peers or the law of the land**."[14] (emphasis added)

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[13] See also: Ky Const § 1 [page 26 hereof], i.e., "Rights of life, liberty, worship, pursuit of safety and happiness, free speech, acquiring and protecting property, ...redress of grievances, bearing arms: "**All men** are, by nature, free and equal, and **have certain inherent and inalienable rights**, among which may be reckoned: ...**Second**: The right of worshipping Almighty God **according to the dictates of their consciences**; ...**Fourth**: The right of **freely communicating their thoughts and opinions** (emphasis added); **ARTICLE IV-SECTION 2**, U. S. Constitution [supra, page 6 hereof], i.e., [1.] "The citizens of each state shall be entitled to **all privileges and immunities** of citizens in the several states"; **U.S. Const. Amend. 14** [supra, pages 10 & 11 hereof], i.e., " **All persons** born or naturalized in the United States, and subject to the jurisdiction thereof, are **citizens of the United States** and of the **State wherein they reside**. **No State** shall make or enforce **any law** which shall abridge the privileges or immunities of citizens of the United States; **nor shall any state deprive any person of life, liberty, or property, without due process of law**; nor deny any **person within its jurisdiction equal protection of the laws**"; (emphasis added)

[14] See also: Ky Const § 1 [page 26 hereof], i.e., "Rights of life, liberty, worship, pursuit of safety and happiness, free speech, acquiring and protecting property, ...redress of grievances, bearing arms: "**All men** are, by nature, free and equal, and **have certain inherent and inalienable rights**, among wich may be reckoned: **First**: The right of enjoying and **defending their** lives and **liberties**; **Third**: The right of seeking and pursuing their safety and happiness; **Fifth**: The right of acquiring and **protecting property** (emphasis added); **ARTICLE III-SECTION 2 [3.], U.S. CONST.** [supra, page 6 hereof], i.e., "The

trial of **all crimes**...shall be held...**in the state where the said crimes shall have been committed**" (emph. added); **ARTICLE IV-SECTION 2 [1.], U.S. CONST.** [supra, page 6 hereof], i.e., "The citizens of each state shall be entitled to **all privileges and immunities**..." (continued, page 19 hereof)

ARTICLE 1, SECTION 10. Double jeopardy prohibited - "That **no person shall**, for the same offence, **be twice put in jeopardy** of life or limb."[15] (emphasis added)

ARTICLE 1, SECTION 14. Prerequisites to criminal charge. - "That **no man shall be put to answer any criminal charge** but by presentment, indictment[16] **or impeachment**." (emphasis added)

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[14] **ARTICLE IV-SECTION 2 [1.], U.S. CONST.** (continued from page 18 hereof): "...of citizens in the several states"; **U.S. Const. Amend. 4** [supra, page 6 hereof], i.e., "The right of the people to be secure in their **persons**, houses, papers, and effects, against unreasonable searches and **seizures**, shall not be violated, and **no Warrants shall issue, but upon probable cause**" (emphasis added); and **U.S. Const. Amend. 14** [supra, pages 10 & 11 hereof], i.e., "**All persons** born or naturalized in the United States, and subject to the jurisdiction thereof, are **citizens of the United States** and of the **State wherein they reside**. **No State** shall make or enforce **any law** which shall abridge the privileges or immunities of citizens of the United States; **nor shall any state deprive any person of life, liberty, or property, without due process of law**; nor deny any **person within its jurisdiction equal protection of the laws.**" (emphasis added)

[15] See also: **Ky Const § 13** [page 27 hereof], i.e., "**No person shall**, for the same offense, **be twice put in jeopardy** of his life and limb..." (emphasis added); **U.S. Const. Amend. 14** [supra, pages 10 & 11 hereof], i.e., "**All persons** born or naturalized in the United States, and subject to the jurisdiction thereof, are **citizens of the United States** and of the **State wherein they reside**. **No State** shall make or enforce **any law** which shall abridge the privileges or immunities of citizens of the United States; **nor shall any state deprive any person of life, liberty, or property, without due process of law**; nor deny any **person within its jurisdiction equal protection of the laws.**" (emphasis added)

[16] See also: **Ky Const § 12** [page 27 hereof], i.e., "No person, **for an indictable offense**, shall be proceeded against criminally by information ..., or by leave of court for oppression or misdemeanor in office" (emphasis added); **U.S. Const. Amend. 5** [supra, pages 7 & 8], i.e., "No person shall **be held** to answer for...infamous crime, **unless on a presentment or indictment** of a Grand Jury,

...**nor be deprived of**...**liberty**, or property, **without due process of law**" (emph. added); and **U.S. Const. Amend. 14** [supra, pages 10 & 11 hereof], i.e., "**All persons** born or naturalized in the United States, and subject to the jurisdiction thereof, are **citizens of the United States** and of the **State wherein they reside**. **No State** shall make or enforce **any law** which shall abridge the privileges or immunities of citizens of the United States; **nor shall any state deprive any person of life, liberty, or property, without due process of law**; nor deny any **person within its jurisdiction equal protection of the laws.**" (emphasis added)

ARTICLE 1, SECTION 15. Bailable offenses - Habeas corpus -"That **all prisoners shall be bailable by sufficient sureties**, unless for capital offences, when the proof is evident, or the presumption great. And **the writ of Habeas corpus shall not be suspended**, unless in case of rebellion or invasion, the General Assembly shall declare the public safety requires it.[17] (emphasis added)

ARTICLE 1, SECTION 16. Restrictions on bail, fines and punishment - "That **excessive bail shall not be required**, nor excessive fines imposed, **no cruel and unusual punishments inflicted.**"[17] (emphasis added)

ARTICLE 1, SECTION 19. Freedom of speech and press. - "That ...**[t]he free communication of thoughts and opinions, is one of the invaluable rights of man, and every citizen may speak, write, and print on any subject**[18], being responsible for the abuse of that liberty. ..." (emphasis added)

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[17] See also: "**Ky Const § 16** [page 27 hereof], i.e., "**Right to bail; habeas corpus**: "**All prisoners shall be bailable** by sufficient securities, unless for capital offenses when the proof is evident or the presumption is great; and **the privilege of the writ of habeas corpus shall not be suspended** unless when, in case of rebellion or invasion, the public safety may require it." (emphasis added); **ARTICLE I-SECTION 9, U. S. Constitution** [supra, page 5 hereof], i.e., "[2.] The privilege of the writ of habeas corpus **shall not be suspended**..." (emphasis added); **ARTICLE IV-SECTION 2, U. S. Constitution** [supra, page 6 hereof], i.e., "[1.] The citizens of each state shall be entitled to **all privileges and immunities** of citizens in the several states" (emphasis added); **U.S. Const. Amend. 8** [supra, page 10 hereof], i.e., "**Excessive bail** shall not be required,

nor...**unusual punishments** inflicted" (emphasis added); and **U.S. Const. Amend. 14** [supra, pages 10 & 11 hereof], i.e., "**All persons** born or naturalized in the United States, and subject to the jurisdiction thereof, are **citizens of the United States** and of the **State wherein they reside**. **No State** shall make or enforce **any law** which shall abridge the privileges or immunities of citizens of the United States; **nor shall any state deprive any person of life, liberty, or property, without due process of law**; nor deny any **person within its jurisdiction equal protection of the laws.**" (emphasis added)

[18] See also: **ARTICLE 1, SECTION 3. Freedom of worship, Tenn. Const.** [supra, page 18 hereof], i.e., "That all men have a natural and indefeasible right to worship Almighty God to the dictates of their own conscience; that no man can of right be compelled to attend, erect, or support any place of worship, or to maintain any minister against his consent; **that no human authority can, in any case whatsoever, control or interfere with the rights of conscience**; ..." (emphasis added); footnote [13] thereto [id., page 17]; and hereinafter paragraphs E-4 thru E-6, E-19 thru E-22, E-24, E-28(b), & E-55 thru E-60.

TENNESSEE CRIMINAL CODE

39-17-308. Harassment. - "(a) A person commits an offense who **intentionally**: (2) **Places one (1) or more telephone calls** anonymously, or at an inconvenient hour, or **in an offensively repetitious manner**, or **without a legitimate purpose of communication, and by this action knowingly annoys or alarms the recipient;**[19] (b) **A violation of this section is a Class A misdemeanor**." (emphasis added)

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[19] See hereinafter paragraphs E-43, E-45, E-56 thru E-58, E-60 thru E-64, E-67, & E-68. See also: **ARTICLE I-SECTION 10**, U.S. Constitution [supra, page 6 hereof, i.e., "[1.] **No state shall...pass any...*ex post facto* law**, or law impairing the obligation of contracts..." (emphasis added); **ARTICLE IV- SECTION 2**, U.S. Constitution [supra page 6 hereof], i.e., "[1.] The citizens of each state shall be entitled to **all privileges and immunities** of citizens in the several states..." (emphasis added); **U.S. Const. Amend. 1** [supra, page 7 hereof], i.e., "Congress shall make no law respecting...religion, or prohibiting the free exercise thereof; **or abridging freedom of speech...**" (emphasis added); **U.S. Const. Amend. 14** [supra, pages 10 & 11 hereof], i.e., "**All persons** born or naturalized in the United States, and subject to the jurisdiction thereof, are **citizens of the United States** and of the **State wherein they reside**. **No State** shall make or enforce **any law** which shall abridge the privileges or immunities of citizens of the United

States..." (emphasis added); **ARTICLE 1, SECTION 3, Constitution of Tennessee** [supra, page 17 hereof], i.e., "That all men have a natural and indefeasible right to worship Almighty God to the dictates of their own conscience; ...**that no human authority can, in any case whatsoever, control or interfere with the rights of conscience**" (emphasis added); **ARTICLE 1, SECTION 19, Constitution of Tennessee** [supra, page 20 hereof], i.e., "That ...**[t]he free communication of thoughts and opinions, is one of the invaluable rights of man, and every citizen may speak, write, and print on any subject**, being responsible for the abuse of that liberty. ..." (emphasis added); **Ky Const § 5** [supra, page 26 hereof], i.e., "...**the civil rights, privileges or capacities of no person shall be** taken away, **or in anywise diminished or enlarged**, on account of his belief or disbelief of any religious tenet, dogma or teaching. **No human authority shall**, in any case whatever, **control or interfere with the rights of conscience**" (emphasis added); **Ky Const § 8** [supra, page 26 hereof], i.e., "...**every person may freely speak, write and print on any subject**, being responsible for the abuse of that liberty" (emphasis added); **Ky Const § 19** [supra, page 27 hereof], i.e., "(1) No **ex post facto** law, ...shall be enacted" (emphasis added); **Ky Const § 24** [supra, page 28 hereof], i.e., "**Emigration** from the State **shall not be prohibited**" (emphasis added); and **Ky Const § 26** [id.]: "To guard against transgression of the high powers we have delegated, We Declare that **every thing in this bill of rights is excepted out of the general powers of government and shall forever remain inviolate; and all laws contrary thereto, or contrary to this Constitution, shall be void**." (emphasis added)

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39-17-309. Civil rights intimidation. - "(a) The general assembly finds and declares that **it is the right of every person regardless of race, color**, ancestry, or national origin, **to be secure and protected from fear, intimidation, harassment and bodily injury caused by the activities of groups and individuals. It is not the intent of this section to interfere with the exercise of rights protected by the constitution of the United States.** The general assembly recognizes the constitutional **right of every citizen to harbor and express beliefs on any subject**[20] and to associate with others who share similar beliefs. The general assembly further finds that the advocacy of unlawful acts by groups or individuals against other persons or groups for the purpose of inciting and provoking damage to property and bodily injury or death to persons is not constitutionally protected, poses a threat to public order and safety, and should be subject to criminal sanctions.

(b) **A person commits the offense of intimidating others from exercising civil rights who:** (1) Injures or threatens to injure or **coerces another person with the intent to unlawfully intimidate another from the free exercise or enjoyment of any right or privilege secured by the constitution or laws of the state of Tennessee;**[21]

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[20] See hereinbefore footnote [19] [supra, page 21 hereof].

[21] See: Tennessee Constitution: **ARTICLE 1, SECTION 3. Freedom of worship** [supra, page 18 hereof], i.e, "That all men have a natural and indefeasible right to worship Almighty God to the dictates of their own conscience; ...**that no human authority can, in any case whatsoever, control or interfere with the rights of conscience**" (emphasis added); **ARTICLE 1, SECTION 8. No man to be disturbed by law** [supra, page 18 hereof], i.e, "That **no man shall be taken or imprisoned, or disseized of his freehold, liberties or privileges**, outlawed, **or exiled or in any manner destroyed or deprived of his life, liberty, or property, but by the judgement of his peers or the law of the land**" (emphasis added); **ARTICLE 1, SECTION 10. Double jeopardy prohibited** [supra, page 19 hereof], i.e., "That **no person shall**, for the same offence, **be twice put in jeopardy** of life or limb" (emphasis added); **ARTICLE 1, SECTION 14. Prerequisites to criminal charge** [supra, page 19 hereof], i.e., "That **no man shall be put to answer any criminal charge but by presentment, indictment or impeachment**" (emphasis added); **ARTICLE 1, SECTION 15. Bailable offenses - Habeas corpus** [supra, page 20 hereof], i.e., "That **all prisoners shall be bailable by sufficient sureties**, ...And **the writ of Habeas corpus shall not be suspended**, unless in case of rebellion or invasion, the General Assembly shall declare the public safety requires it" (emphasis added); **ARTICLE 1, SECTION 16. Restrictions on bail, fines and punishment** [supra, page 20 hereof], i.e., "That **excessive bail shall not be required**, nor excessive fines imposed, **no cruel and unusual punishments inflicted**" (emphasis added); and **ARTICLE 1, SECTION 19. Freedom of speech...** [supra, page 20 hereof], i.e., "That..." (continued, page 23 hereof)

[or] (2) Injures or **threatens to injure or coerces another person with the intent to unlawfully intimidate another because that other exercised any right or privilege secured by the constitution or laws of the United States**[22] **or the constitution or laws of the state of Tennessee;** ...(d) **A violation of**

subsection (b) is a Class D felony." (emphasis added)

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[21] **Tennessee Constitution** (continued from page 22 hereof): "...**[t]he free communication of thoughts and opinions, is one of the invaluable rights of man, and every citizen may speak, write, and print on any subject**, being responsible for the abuse of that liberty." (emphasis added)

[22] **See**: **ARTICLE I-SECTION 9, U.S. Constitution** [supra, page 5 hereof], i.e., "[1.] The **migration** or importation of such persons as any of the states...shall think proper to admit, **shall not be prohibited**...; [2.] The privilege of the writ of habeas corpus **shall not be suspended**..."; [3.] "No bill of attainer or ***ex post facto* law** shall be passed." (emphasis added); **ARTICLE I - SECTION 10**, U.S. Constitution [supra, page 6 hereof], i.e., "[1.] **No state shall...pass any...*ex post facto* law**, or law impairing the obligation of contracts..." (emphasis added); **ARTICLE III-SECTION 2**, U.S. Constitution [supra, page 6 hereof], i.e., "[3.] "The trial of **all crimes**...shall be held ...**in the state where the said crimes shall have been committed**" (emphasis added); **ARTICLE IV-SECTION 2, U.S. Constitution [supra, page** 6 hereof], i.e., "[1.] The citizens of each state shall be entitled to **all privileges and immunities** of citizens in the several states"; **U.S. Const. Amend. 4** [supra, page 7 hereof], i.e., "The right of the people to be secure in their **persons**, houses, papers, and effects, against unreasonable searches and **seizures**, shall not be violated, and **no Warrants shall issue, but upon probable cause**" (emphasis added); **U.S. Const. Amend. 5** [supra, pages 7 & 8 hereof], i.e., "No person shall **be held** to answer for...infamous crime, **unless on a presentment or indictment** of a Grand Jury, **nor shall any person be subject for the same offence to be twice put in jeopardy** of life or limb"; ...**nor be deprived of**...**liberty**, or property, **without due process of law**" (emphasis added); **U.S. Const. Amend 6** [supra, page 8 hereof], i.e., "In **all criminal prosecutions**, the accused shall enjoy the right to a speedy and public trial, **by an impartial jury** of the **State...wherein the crime shall have been committed**..., to be informed of the nature...of the accusation; and...to have compulsory process for obtaining witnesses in his favor" (emph. added); **U.S. Const. Amend 8** [supra, page 10 hereof], i.e., "**Excessive bail** shall not be required, ...nor...**unusual punishments** inflicted" (emph. added); **U.S. Const. Amend 13** [supra, page 10 hereof], i.e., "Neither slavery nor **involuntary servitude**, except as punishment for crime whereof the party shall have been **duly convicted**, shall exist within the United States or **any place** subject to their jurisdiction" (emphasis added); **U.S. Const. Amend. 14** [supra, pages 10 & 11 hereof], i.e., "**All persons** born or naturalized in the United States, and subject to the jurisdiction thereof, are **citizens of the United States** and of the **State wherein they reside**. **No State** shall make or enforce **any law** which shall abridge the..." (continued, page 24 hereof)

40-9-118. Authority given by governor's warrant. - "(a) **The warrant shall authorize the officer or other person to whom directed** to arrest the accused at any place where the accused may be found within [Tennessee] and to command the aid of all sheriffs and other peace officers in the execution of the warrant, and **to deliver the accused, subject to the provisions of this chapter[23], to the duly-authorized agent of the demanding state.**" (emphasis added)

40-9-119. Information to person arrested - Habeas corpus. - "**No person arrested upon such a warrant shall be delivered over to the agent whom the executive authority demanding the person has appointed** to receive the person, **unless the person has been informed of the crime with which the person is charged,** and that the person has the right to demand legal counsel. **If the prisoner, the prisoner's friends or counsel shall state that the person or they desire to test the legality of the arrest[24], the prisoner shall be taken forthwith before a judge of a court of...**

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[22] **U.S. Const. Amend. 14** (continued from page 23 hereof): "...the privileges or immunities of citizens of the United States; **nor shall any state deprive any person of life, liberty, or property, without due process of law**; nor deny any **person within its jurisdiction equal protection of the laws**" (emph. added); **TITLE 18 U.S.C. § 873. Blackmail** [supra, page 12 hereof], i.e., "Whoever, **under threat** of informing, or as a consideration for not informing, against any law of the United States, **demands...any money or other valuable thing,** shall be fined under this title or imprisoned not more than one year, or both." (emphasis added) [see, e.g., hereinafter paragraphs E-16, E-24, & E-50(e)]; **TITLE 18 U.S.C. § 875. Interstate communications** [supra, page 12 hereof], i.e., "(d) Whoever, **with intent to extort** from any person, firm, association, or corporation, **any money or other thing of value, transmits in interstate** or foreign commerce **any communication** containing any threat to injure the property **or reputation** of...another...**or any threat to accuse...any other person of a crime,** shall be fined under this title or imprisoned not more than two years, or both" (emphasis added) [see, e.g., hereinafter paragraphs E-16, E-24, & E-56]; Hereinafter paragraphs E-61, E-62, E-64, E-67. E-68, & E-70 through E-81; and, *et al*, CP#1, L. Red Corn, 05/29/98, 14:22:30 and D. Tapp, et seq.

[23] See **Tennessee Code Annotated 40-9-119** and corresponding footnotes [24] & [25]

[24] See hereinafter paragraphs 76 & 77; Footnote [75], esp., **State v. Phillips, 1960,**

162 A.2d 113, 62 N.J.Super. 70, affirmed 167 A.2d 175, 34 N.J. 63; People v. ex rel. Johnson v. Ruthazer, 1951, 102 N.Y.S.2d 39, 198 Misc. 1044, affirmed 105 N.Y.S.2d 394, 278 App.Div. 905; Pierce v. Creecy, Mo. 1908, 28 S.Ct. 714, 210 U.S. 387, 52 L.Ed. 1113; Ex parte Morgan, D.C.Cal. 1948, 78 F.Supp. 756, affirmed 175 F.2d 404, certiorari denied 70 S.Ct. 76, 338 U.S. 827, 94 L.Ed.503; and CP#1, C. Perkins, 11/10/95, 13:11:11, et seq.

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record in [Tennessee], who shall fix a reasonable time to be allowed the prisoner within which to apply for a writ of habeas corpus[25]. When such writ is applied for, **notice thereof, and the time and place of hearing thereon, shall be given to the public prosecuting officer of the county in which the arrest is made and in which the accused is in custody, and to the agent of the demanding state.**" (emphasis added)

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[25] See hereinafter paragraphs 76 & 77, esp., CP#1, C. Perkins, 11/10/95, 13:11:11, et seq.; "Akers and his attorney were prepared to challenge, by writ of habeas corpus, Akers "fugitive" status and the validity of the charges in Kentucky [see Exhibit "JJ" hereto]. Akers was immediately arrested, however, before the Judge was brought in and Court was even convened. Akers was then remanded to custody until extradited to Fayette County, Kentucky, on October 2, 1995, notwithstanding the best efforts of Akers and his attorneys to resolve/discharge all matters amicably. [see Collective Exhibit "KK"]; and Footnote[75], i.e., "**Interstate extradition** involves a significant...restraint of liberty and, as such, **necessitates a showing of probable cause.**" **Wellington v. State of S.D., D.C.S.D.1976, 413 F.Supp., 151.** (emphasis added) See Also: **Walton v. State, 1977, 566 P.2d 765, 98 Idaho 422**; "**Probable cause** to find that a person to be extradited is a **fugitive from justice** in demanding state is a **condition precedent to valid extradition.**" **Ross v. Hegstrom, 1969, 254 A.2d. 556, 107 Conn. 403** (emphasis added); "In determining whether a party named in a requisition and rendition warrant is a fugitive from justice, **a finding must be made** in substance that a crime is alleged, that the named party committed the crime and fled from the demanding jurisdiction, and **it must appear that accused was within the demanding state when crime was committed** so as to constitute him a fugitive by his commission of crime and his **later flight.**" **Clayton v. Wichael, 1966, 141 N.W.2d 538, 258 Iowa 1037; Wigehert v. Lockhart, 1946, 66 P.2d 988, 114 Colo. 485; Ex parte Foster, 1936, 61 P.2d 37, 60 Okla.Cr. 50**; "**Under** this **[Sec. 2, cl. 2] and Federal Extradition Act, 18 U.S.C.A.** former § 662 [now **§§ 3182, 3195], an extradition is unwarranted unless the accused is a** fugitive from justice, and a '**fugitive from justice**' is a person **who commits a crime within a state and withdraws himself from such jurisdiction**

without waiting to abide the consequences of his act". **Ex parte Montoya, 1943, 135 P.2d 281, 170 Or. 499**. (It is apparent that the Kentucky authorities relied on **Kentucky v. Dennison, 1861, 65 U.S. 66, 24 How. 66, 16 L.Ed. 717**; **Appleyard v. Massachusetts, Mass1906, 27 S.Ct. 122, 203 U.S. 222, 51 L.Ed. 161**; **Ex parte Williams, 1946, 21 N.W.2d, 593, 71 S.D. 95**; **Olson v. Thurston, Me.1978, 393 A.2d 1320**; and, especially, **Com. ex rel. Marshall v. Gedney, 1975, 352 A.2d 528, 237 Pa.Super. 372, affirmed 386 A.2d 942, 478 Pa. 299**, as authorities for Akers' extradition. Those cases, however, do not encompass, ***inter alia***, "**fraud**", "**conspiracy**", and/or "**malice**", which is defined as: "The **intentional** doing of a wrongful act without just cause or excuse, **with an intent to inflict an injury** or under circumstances that the law will imply an evil intent." [Black's Law Dictionary, Sixth Edition, 12th Reprint-1998, emphasis added].)

CONSTITUTION OF KENTUCKY

Ky Const § 1. Rights of life, liberty, worship, pursuit of safety and happiness, free speech, acquiring and protecting property, ...redress of grievances, bearing arms: "**All men** are, by nature, free and equal, and **have certain inherent and inalienable rights**, among which may be reckoned: **First**: The right of enjoying and **defending their** lives and **liberties**; **Second**: The right of worshipping Almighty God **according to the dictates of their consciences**; **Third**: The right of seeking and pursuing their safety and happiness; **Fourth**: The right of **freely communicating their thoughts and opinions**; **Fifth**: The right of acquiring and **protecting property**; ...**Seventh**: The right to bear arms in defense of themselves..."; (emphasis added)

Ky Const § 2. Absolute and arbitrary power denied: "**Absolute and arbitrary power over** the lives, liberty and property of **freemen exists nowhere in a republic, not even in the largest majority**." (emphasis added)

Ky Const § 3. Men are equal...: "All men, ...are equal; and **no grant of exclusive...privileges shall be made to any man or set of men**..." (emphasis added)

Ky Const § 5. Right to religious freedom: "**No preference shall ever be given by law to any religious sect, society or denomination**; ...**and the civil rights, privileges or capacities of no person shall be** taken away, **or in anywise diminished or enlarged**, on account of his belief or disbelief of

any religious tenet, dogma or teaching. **No human authority shall**, in any case whatever, **control or interfere with the rights of conscience**"; (emphasis added)

Ky Const § 8. Freedom of speech and of the press: "... **every person may freely speak, write and print on any subject**, being responsible for the abuse of that liberty." (emph. added)

Ky Const § 10. Security from search and seizure; conditions of issuance of warrant: "The people shall be secure in their persons, houses, papers and possessions, from unreasonable search and seizures; and **no warrant shall issue to search any place, or seize any person or thing**, without describing them as nearly as may be, **nor without probable cause** supported by oath or affirmation." (emphasis added)

Ky Const § 12: "No person, **for an indictable offense**, shall be proceeded against criminally by information..., or by leave of court for oppression or misdemeanor in office"; (emphasis added)

Ky Const § 13: "**No person shall**, for the same offense, **be twice put in jeopardy**[26] of his life and limb..."; (emphasis)

Ky Const § 15. Laws to be suspended only by General Assembly: "No power to suspend laws shall be exercised unless by the General Assembly or its authority." (emphasis added)

Ky Const § 16. Right to bail; habeas corpus: "**All prisoners shall be bailable**[27] by sufficient securities, unless for capital offenses when the proof is evident or the presumption is great; **and the privilege of the writ of habeas corpus shall not be suspended** unless when, in case of rebellion or invasion, the public safety may require it." (emphasis added)

Ky Const § 17. Excessive bail or fine, or cruel punishment, prohibited: "**Excessive bail shall not be required**[27], **nor cruel punishment inflicted**." (emphasis added)

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[26] **See also**: **Fifth Amendment, U. S. Constitution** [supra, page 6 hereof]; **Sherley v. Commonwealth, 558 SW(2d) 615 (Ky 1977)**, i.e., "Where

Commonwealth used the **same evidence** of force causing serious physical injury to elevate offense..., defendant was placed in double jeopardy by conviction of first degree assault on the basis of the same physical injury; ...K.R.S. 505.020, 506.010(4)(a), 508.101(1)(a), 510.040(1)(b), (2)" (emphasis added); **Crawley v. Kunzman, 585 SW(2d) 387 (Ky 1979)**, i.e., "[R]ight of appeal is not [an] adequate remedy against double jeopardy. U.S.C.A. Const. Amend. 5" (emphasis added); and **Klee v. Lair, 621 SW(2d) 892, (Ky 1981)**, i.e., "[D]efendant's having been found guilty of **lesser included offense**...would **prohibit** him from being tried a second time for major offense." (emphasis added)

[27] See hereinafter paragraphs E-83, E-90, E-98, E-99, E-111, E-112 through E-114, E-119, & E-121. **See also, Commonwealth v. Hardin, S.W.2d 498 (1958)**, i.e., "What is the purpose of an appeal in any criminal case? It is to avoid the consequences of conviction. So it is with this appeal. It differs from other appeals, only as to grounds presented for reversal and the manner of presentation, not in purpose. **It is therefore the opinion of this Court that the defendant was entitled to bond pending appeal and the law is so certified**." (emph. added); **Kentucky Criminal Practice § 11.09 Modification or revocation of bail**, i.e., "In **Marcum v Broughton**, the Court held that after bond has been set by the court, the bond may not be increased or revoked without a change in the defendant's status. The Court stated that **increasing the bond without any reason would be an arbitrary action in violation of § 2 of the Constitution of Kentucky**" (emphasis added); and **Kentucky Criminal Practice § 11.10 Termination of right to bail by operation of law**, i.e., "The setting aside of the judgement of conviction and remanding for a new trial would place the defendant in the same position as he was prior to conviction, thus raising a good ground for reducing the amount of the bail to the pre-conviction level."

Ky Const § 19 (1): "No **ex post facto** law, ...shall be enacted"[28]; (emphasis added)

Ky Const § 24: "**Emigration** from the State **shall not be prohibited**";[29] (emphasis added)

Ky Const § 26: "To guard against transgression of the high powers we have delegated[30], We Declare that **every thing in this bill of rights is excepted out of the general powers of government and shall forever remain inviolate; and all laws contrary thereto, or contrary to this Constitution, shall be void**."[30] (emphasis added)

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[28] See also: **ARTICLE I-SECTION 9**, U.S. Constitution [supra, page 6 hereof],

i.e., "[3.] No bill of attainer or ***ex post facto*** **law** shall be passed." (emph. added) and footnote [1] thereto, i.e., "**Ex post facto law" defined**: "A law passed **after the occurrence of a fact or commission of an act**, which retrospectively changes the legal consequences or relations of such fact or deed." "A law is **unconstitutionally "ex post facto"** if it deprives a defendant of a defense to criminal liability that he had prior to enactment of the law. State v. Rogers, Ohio Com.Pl., 346 N.E.2d 352, 361..." (emphasis added); and hereinafter paragraphs E-4, E-12, E-54, E-98, & E-117, ***inter alia***.

[29] **See also**: **ARTICLE I-SECTION 9**, U.S. Constitution [supra, page 5 hereof], i.e., "[1.] The **migration** or importation of such persons as any of the states ...shall think proper to admit, **shall not be prohibited**..." (emphasis added); **ARTICLE IV-SECTION 2**, U.S. Constitution [supra, page 6 hereof], i.e., "[1.] The citizens of each state shall be entitled to **all privileges and immunities** of citizens in the several states" (emphasis added); **U.S. Const. Amend. 14** [supra, page 10 hereof], i.e., "**All persons** born or naturalized in the United States, and subject to the jurisdiction thereof, are **citizens of the United States** and of the **State wherein they reside**. **No State** shall make or enforce **any law** which shall abridge the privileges or immunities of citizens of the United States; **nor shall any state deprive any person of life, liberty, or property, without due process of law**; nor deny any **person within its jurisdiction equal protection of the laws**" (emphasis added); **ARTICLE 1, SECTION 8, Constitution of Tennessee** [supra, page 18 hereof], i.e., "That **no man shall be taken or imprisoned, or disseized of his freehold, liberties or privileges**, outlawed, **or exiled or in any manner destroyed or deprived of his life, liberty, or property, but by the judgement of his peers or the law of the land**" (emphasis added); and hereinafter paragraphs E-47, E-50(g), E-51 through E-55, & E-59.

[30] **These very same concerns, and safeguards against them**, were addressed by United States Supreme Court Justices Douglas & Marshall in landmark decision **North Carolina v. Pearce, 89 S.Ct. 2089 (1969)** [supra, page 6 hereof]. **See also**: **801 SW(2d) 321 (Ky 1990), Ingram v Commonwealth**, i.e., "**The Kentucky Constitution is superordinate to legislative intent**..." (emphasis added)

KENTUCKY REVISED STATUTES

403.715 Interpretation of KRS 403.715 to 403.785 by court: "KRS 403.715 to 403.785 shall be interpreted by the courts of the Commonwealth to effectuate the following legislative purposes: (1) To allow persons who are the victims of domestic violence and abuse to obtain short-term protection against further domestic violence and abuse in order that their lives will be as secure and as uninterrupted as possible;"

403.720 Definitions for KRS 403.715 to 403.785: "As used in KRS 403.715 to 403.785: (1) '**Domestic violence** and abuse' **means physical injury, serious physical injury**, sexual abuse, **or assault between family members** or members of an unmarried couple; (2) '**Family member**' **means a spouse**, a parent, a child, a stepchild, or any other person related by consanguinity or affinity..." (emphasis added)

403.725 Petition, who may file, protective orders: "(1) Any family member or member of an unmaried couple who is a resident of this state or who...fled to this state to escape domestic violence or abuse may file a verified petition in the District Court of the county in which he resides."

403.735 Review by court; access to emergency protective orders; local protocol in domestic violence matters; time at which orders of protection take effect: "(1) Upon filing of a petition, as provided for in KRS.725, the court, after review of the petition and determining that domestic violence and abuse exists, and without a jury, shall utilize one of the alternatives provided for in KRS 403.740 or 403.745."

403.740 Emergency protective order: "(1) If, upon review of the petition, as provided for in KRS 403.735, the court determines that the allegations contained therein indicate the presence of an immediate and present danger of domestic violence and abuse, the court shall issue, upon proper motion, ex parte, an emergency protective order: (a) Restraining the adverse party from...contact or communication with the petitioner except as directed by the court; (b) Restraining the adverse party from committing further acts of domestic violence and abuse; (c) Restraining the adverse party from disposing of or damaging any property of the parties; (d) Directing the adverse party to vacate the residence shared by the parties to the action; ...or (f) Enter other orders the court believes will be of assistance in eliminating future acts of domestic violence and abuse; or any combination thereof."

403.745 Hearing: "(3) The summons, together with a copy of the order fixing the date of the hearing and a copy of the

petition, **shall be personally served upon the adverse party**... in the manner and by the persons authorized to serve subpoenas under...Rule 45.03 of the Rules of Civil Procedure." (emphasis added)

403.750 Court Orders: "(1) Following the hearing provided for under KRS 403.745, the court, if it finds, from a preponderance of the evidence, that an act or acts of domestic violence and abuse have occurred and may again occur, may: (a) Restrain the adverse party from committing further acts of domestic violence and abuse; (b) Restrain the adverse party from disposing of or damaging any of the property of the parties; (c) Direct the adverse party to vacate the residence shared by the parties to the action; (f) Direct that either or both parties receive counseling services in the community; (g) Enter other such orders as the court believes will be of assistance in eliminating future acts of domestic violence and abuse; and (2) **Any order entered pursuant to this section shall be in effect for a period of time**, fixed by the court, **not to exceed one year**."[31] (emphasis added)

403.7505 (2): "(a) **'Domestic violence'** is a pattern of coercive control which **includes physical**, sexual, psychological, and environmental **abuse, and is considered criminal conduct;**" (emphasis added)

403.760 Contempt of court: "(1) **Violation of the terms or conditions of an order under the provisions of KRS 403.740 or 403.750**, whether an emergency protective order, or an order following hearing, after service of the order on the respondent, or notice to the respondent, **shall constitute contempt of court**; (5) **Civil proceedings and criminal proceedings are mutually-exclusive. Once either has been initiated, the other may not be undertaken regardless of the outcome of the original proceeding**. (emphasis added)

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[31] Note: The herein provisions of KRS 403.750 were in effect **at all times relevant to Akers' case**, but were subsequently revised on 7-15-96 (see 1996 c 99, § 2) See also: Fourteenth Amendment, U.S. Constitution [supra, page 10 hereof] and Ky Const § 19 (1) [supra, page 28 hereof]; and K.R.S. 505. 020(1)(a)& (c) [page 16 hereof], i.e., "[w]hen a **single course of conduct** of a defendant may establish the commission of more than one offense, he may be prosecuted for

each such offense. **He may not, however, be convicted of more than one offense when**: (a) **One offense is included in the other**...; or (b) Inconsistent findings of fact are required to establish the commission of the offenses; or (c) **The offense is designed to prohibit a continuing course of conduct** and the defendant's conduct was uninterrupted by legal process." (emphasis added)

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403.780 Testimony not admissible in criminal proceeding: "**Testimony offered by an adverse party** in a hearing held pursuant to the provisions of 403.745 **shall not be admissible in any criminal proceeding involving the same parties**." (emphasis added)

500.050 Time limitations: "(1) Unless otherwise expressly provided, the prosecution of **a felony is not subject to a period of limitation** and may be commenced at any time. (2) Except as otherwise specifically provided, the **prosecution of an offense other than a felony must be commenced within one year after it is committed**." (emphasis added)

500.060 Territorial applicability: "(1) **Except as otherwise provided in this section**, a person may be convicted under the law of [Kentucky] of an offense committed by his own conduct ...when: (a) Either the conduct or the result which is an element of the offense occurs within [Kentucky]; (2) **Subsection (1)(a) does not apply if causing a particular result is an element of an offense and the result is caused by conduct occurring outside [Kentucky]** [and] would not constitute and offense if the result had occurred [in the other state] - unless the actor intentionally or knowingly caused the result in [Kentucky]. (emphasis and interpretation/clarification added)[32]

500.070 Burden of proof; defenses: "(2) **No Court can require notice of a defense prior to trial time**." (emph. added)

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[32] See also: **COMMENTARY, Kentucky Crime Commission/LRC, 1974**: "The provisions of this statute, initially proposed in the Model Penal Code, seek to deal with the power of a state to prosecute criminal conduct that has an interstate character. The common law rule has been stated as follows: At common law a prosecution could not be brought except for an offense of the 'gist' of which occurred within the prosecuting jurisdiction. ...Subsection [K.R.S.

505.080(1)](2) seeks to minimize the difficulty with imposing penal sanctions on conduct that cause a result that is criminal in [Kentucky] **but noncriminal in the state in which the conduct occurs**. The justification for this provision was best explained by the drafter of the Proposed Delaware Code:" ..."While the intention of the section is to extend Delaware's jurisdictions as widely as it may constitutionally be extended, **we believe that it would be wrong to attempt to cover conduct which unintentionally produces a result in Delaware, at least when the result would have been lawful had it occurred where it was intended to occur**. Proposed Delaware Penal Code § 8, Commentary (1967)"; "**Vagueness Doctrine**" defined: "Under this doctrine, **a law, (e.g., criminal statute) which does not fairly inform an ordinary person of what is commanded or prohibited is unconstitutional as violative of due process**. The doctrine originates in the due process clause of the Fourteenth Amendment, and is basis for striking down..." (continued, page 32 hereof)

500.080 Definitions for Kentucky Penal Code: "As used in the Kentucky Penal Code, unless the context otherwise requires: (3) **'Dangerous instrument' means any instrument**, including parts of the human body when a serious physical injury is a result of the use of that part of the human body...**which, under the circumstances in which it is used, attempted to be used, or threatened to be used is readily capable of causing death or serious physical injury**; (5) 'Felony' means an offense for which a sentence to a term of imprisonment of at least one year in the custody of the Department of Corrections may be imposed; (7) 'He' means any natural person and, where relevant, a corporation or an unincorporated association; (13) **'Physical injury' means substantial physical pain or any impairment of physical condition**; (15) **'Serious physical injury' means physical injury which creates a substantial risk of death, or which causes serious and prolonged disfigurement, or prolonged impairment of the function of any bodily organ.**" (emphasis added)

505.010 Entrapment; "A person is not guilty of an offense arising out of a proscribed conduct **when**: (a) **He was induced or encouraged** to engage in that conduct by a public servant or **by a person acting in cooperation with a public servant seeking to obtain evidence against him for the purpose**

of a criminal prosecution; and (b) At the time of the inducement or encouragement, **he was not otherwise disposed to engage in such conduct.** (emphasis added)

505.020 Prosecution for multiple offenses; K.R.S. Title 50-Kentucky Penal Code: "(1) When a **single course of conduct** of a defendant may establish the commission of more than one offense, he may be prosecuted for each such offense. **He may not, however, be convicted of more than one offense when:** (a)

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[32] "**Vagueness Doctrine**" (continued from page 31 hereof): "...legislation which contains **insufficient warning of what conduct is unlawful**. McCrary v. State, Ala.Crim.App., 429 So.2d 1121, 1123. **It requires that penal statutes give notice to [an] ordinary person of what is prohibited and provide definite standards to** guide discretionary actions of police officers so as to **prevent arbitrary and discriminatory law enforcement**. Porta v. Mayor, City of Omaha, Neb., D.C.Neb., 593 F.Supp. 863, 865; **See also Vague**; **Void for vagueness doctrine**: "A law which is so obscure in its promulgation that a reasonable person could not determine from a reading what the law purports to command or prohibit is violative of due process. The doctrine means that criminal responsibility should not attach where on e could not reasonably understand that his contemplated conduct is proscribed. U.S. v. National Dairy Products Corp., Mo., 83 S.Ct. 594, 598, 372 U.S. 29, 91 L.Ed.2d 561. Also, the First Amendment requires special clarity so that protected expression will not be chilled or suppressed." [Black's Law Dictionary, Sixth Edition, 12th Reprint-1998, (emphasis added)]

One offense is included in the other, as defined in subsection (2); or (b) Inconsistent findings of fact are required to establish the commission of the offenses; **or (c) The offense is designed to prohibit a continuing course of conduct and the defendant's conduct was uninterrupted by legal process,** unless the law expressly provides that specific periods of such conduct constitute separate offenses."[33] (emphasis added)

505.040 Effect of former prosecution for different offense[34]: "Although a prosecution is for a violation of a different statutory provision from a former prosecution..., **it is barred by the former prosecution under the following circumstances: (1) The former prosecution resulted in...a**

determination that there was insufficient evidence to warrant

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[33] See also: **801 SW(2d) 321 (Ky 1990), Ingram v Commonwealth**: "**The Kentucky Constitution is superordinate to legislative intent**, and the view of double jeopardy in Ky Const § 13 is broader than the included offense approach of KRS 505.020; therefore, the Commonwealth is permitted to carve out of a single episode the most serious offense, **but not to punish a single episode as multiple offenses**, so that **in a case where the defendant has committed a single act or impulse** constituting one offense, and dual offenses are constitutionally impermissible." [Akers does hereby acknowledge that the Ingram case has been subsequently overruled by the Kentucky Supreme Court, on August 29, 1996, in **Commonwealth v Burge**, 947 SW(2d) 805 (Ky 1996). The **Burge** decision would, however, amount to an "***ex post facto***" ruling in view of its time-frame in relation to Akers' case and, as such, its application thereto would be violative of the Fourteenth Amendment to the United States Constitution, as well as Ky Const § 19] (emphasis added)

[34] See also: **COMMENTARY, Kentucky Crime Commission/LRC, 1974**: "Following an aquittal, a conviction, or a determination by the court that there was insufficient evidence to warrant a conviction, **subsequent prosecution is barred** by subsection [505.040](1)(b) **if it is for an offense involving the same conduct as a former prosecution**. For example: D is charged with committing breach of the peace by assaulting V, tried for this offense, and convicted. He is then tried for assault and battery of V. The former prosecution would serve to bar the subsequent prosecution under subsection (1)(b). Subsection (2) of this section parallels a provision in KRS 505.030 and provides for the doctrine of res judicata where the subsequent prosecution is for a different offense. The manner in which this provision is to operate is demonstrated well by an example used in the Proposed Delaware Criminal Code: As an example of how this would work, we may take the case of an injury caused by allegedly reckless driving by D. Suppose that D is first charged with reckless driving, and the case resulted that, under the circumstances, D was not reckless. If he is later charged with manslaughter, which requires proof of recklessness, he would be **entitled to an acquittal**. Proposed Delaware Criminal Code § 12, Commentary at 20 (1967)" (emphasis added)

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a conviction, and the subsequent prosecution is for: (a) An offense of which the defendant could have been convicted at the first prosecution; or (b) **An offense involving the same conduct** as the first prosecution requires proof of a fact not required in the other prosecution or unless the offense was not

consummated when the former prosecution began; **or (2) The former prosecution was terminated by a final order or judgement which has not subsequently been set aside and which required a determination inconsistent with any fact necessary to a conviction in the subsequent prosecution**; or (3) The former prosecution was improperly terminated, as that term is used in subsection (4) of KRS 505.030, and the subsequent prosecution is for an offense of which the defendant could have been convicted had the former prosecution not been improperly terminated." (emphasis added)

505.030 (4) [see 505.040 (3)]: "The former prosecution was improperly terminated **after the first witness was sworn**[35] but before findings were rendered by the trier of fact." (emphasis added)

508.010 Assault in the first degree: "(1) A person is guilty of assault in the first degree when: (a) He **intentionally causes serious physical injury to another person by means of a deadly weapon or dangerous instrument**[36]; **or** (b) Under...

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[35] See hereinafter paragragraphs E-34 & E-38.

[36] **See also**: **502 SW(2d) 60 (Ky 1973), Wills v. Commonwealth**: "Notwithstanding claim that instruction of malicious striking and wounding with intent to kill should not have been given because it was not proven that defendant had used a deadly weapon, other than his **fist which has been held not to be a deadly weapon**, where defendant was not convicted upon charge of striking and wounding but upon lesser charge of assault and battery, instruction was not prejudicial to defendant" (emph. added); **321 SW(2d) 253 (Ky 1959), Charles v Commonwealth**: "The **fist has been held not to be a deadly weapon**" (emphasis added); and **248 SW(2d) 911 (Ky 1952), Reed v Commonwealth**: "Hands and feet **are not deadly weapons**. (Annotation from former KRS 435.170)" (emphasis added); and **695 SW(2d) 863 (Ky 1985), Roney v Commonwealth**: "**A human fist is not a 'dangerous instrument' within the meaning of first-degree assault statute, KRS 508.010**; in light of the ambiguity of the legislature's intent, rule of lenity is followed and **it was error to instruct the jury to convict an accused if it believed fists were dangerous instruments**." (emphasis added) Akers does hereby acknowedge that the **Roney** case was subsequently overruled by the Kentucky Court of Appeals in **Johnson v. Commonwealth, 926 SW(2d) 463 (Ky App 1996)**. However, as with the hereinabove **Commonwealth v Burge**, [see footnote 36, page 30 hereof], the **Johnson** decision would amount to an "***ex post facto***" ruling in view its timeframe in relation to Akers' case and, as such, its application thereto would

be in violation of U.S. Const. Amend. 14 [supra, page 10 hereof] and Ky Const § 19 [supra, page 26 hereof]

circumstances manifesting extreme indifference to the value of **human life, he engages in conduct which creates a grave risk of death**[37] **to another and thereby causes serious physical injury** to another person. (2) Assault in the first degree is a Class B felony." (emphasis added)

508.030 Assault in the fourth degree: "(1) A person is guilty of assault in the fourth degree when: (a) He **intentionally or wantonly causes physical injury** to another person; **or (b) With recklessness he causes physical injury** to another person **by means of a deadly weapon or a dangerous instrument**[36]. (2) Assault in the fourth degree is **a Class A misdemeanor**." (emph. added)

508.040 Assault under extreme emotional disturbance: "(1) In any prosecution under KRS 508.010, 508.020, or 508.030, in which intentionally causing physical injury or serious physical injury is an element of the offense, a defendant may establish in mitigation that he acted under the influence of extreme emotional disturbance, as defined in subsection (1)(a) of KRS 507.020. (2) An assault committed under influence of extreme emotional disturbance is: (a) A Class D felony when it would constitute an assault in the first degree or an assault in the second degree if not committed under the influence of extreme emotional disturbance; or (b) A Class B misdemeanor when it would constitute an assault in the fourth degree if not committed under the influence of extreme emotional disturbance;"

508.130 Definitions for KRS 508.130 to 508.150: "As used in KRS 508.130 to 508.150, unless the context requires otherwise: (1)(a) **To 'stalk' means to engage in an intentional course of conduct**: 1. Directed at a specific person or persons; 2. Which seriously alarms , annoys, intimidates, or harasses the person or persons; **and** 3. **Which serves no legitimate purpose**. (b) The course of conduct shall be that which would cause a

reasonable person to suffer substantial mental distress. (2) 'Course of conduct' means a pattern of conduct composed of two (2) or more acts, evidencing a continuity of purpose. **Constitu-tionally-protected activity is not included within the meaning of 'course of conduct'**. If the defendant claims that he was engaged in constitutionally-protected activity, **the court** shall determine the validity of that claim **as a matter of law** and...**shall exclude that activity from the evidence**." (emphasis added)

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[37] **See also**: **719 SW(2d) 730 (Ky 1986), Souder v. Commonwealth**. "Where there is no evidence to prove that...victim is in danger of death..., **the evidence is insufficient to sustain a conviction for first degree assault, which requires the infliction of 'serious physical injury'**." (emphasis added)

508.140 Stalking in the first degree: "(1) A person is guilty of stalking in the first degree, (a) When he **intentionally**: 1. Stalks another person; **and 2. Makes an explicit or implicit threat with intent to place that person in reasonable fear of**: a. Sexual contact as defined in KRS 510.010; **or b. Serious physical injury; or c. Death; and (b) 1. A protective order or other judicial order as provided in KRS Chapter 403 has been issued by the court to protect the same victim** or victims **and the defendant has been served**[38] **with the order or summons or has been given actual notice**; or 2. A criminal complaint is currently pending with a court, law enforcement agency, or prosecutor by the same victim or victims and the defendant has been served with a summons or warrant or has been given actual notice; or...4. The act or acts were committed while the defendant had a deadly weapon on or about his person. (2) **Stalking in the first degree is a Class D felony**." (emphasis added)

508.150 Stalking in the second degree: "(1) A person is guilty of stalking in the second degree when he **intentionally**: (a) Stalks another person; **and (b) Makes an explicit or implicit threat with intent** to place that person in reasonable fear of: 1. Sexual contact as defined in KRS 510.010; 2. Physical injury; or

3. Death. (2) **Stalking in the second degree is a Class A misdemeanor.**" (emphasis added)

509.020 Unlawful imprisonment in the first degree: "(1) A person is guilty of unlawful imprisonment in the first degree when he **knowingly and unlawfully restrains another person under circumstances which expose that person to risk of serious physical injury**. (2) Unlawful imprisonment in the first degree is a Class D felony." (emphasis added)

509.040 Kidnapping: "(1) A person is guilty of kidnapping when he **unlawfully restrains another person** and when his intent is: (b) **To accomplish or to advance the commission of a felony**; (2) Kidnapping is a Class B felony when the victim is released in a safe place prior to trial, except as provided in this section." (emphasis added)

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[38] See also: U.S. v. Casciano, 927 F.Supp. 54 N.D.N.Y. 1996, i.e., "...12. **Due process clause requires that notice be reasonably calculated, under all circumstances, to apprise interested parties** of penalty an action and afford them an opportunity to present their objections. U.S.C.A. Const. Amend. 5." [i.e., "No person shall be held to answer for...infamous crime, unless on a presentment or indictment..., **nor shall any person be subject for the same offence to be twice put in jeopardy** of life or limb"; ...**nor be deprived of** ...**liberty**, or property, **without due process of law**"; (emphasis added)

514.030 Theft by unlawful taking or disposition: "(1) Except as otherwise provided in KRS 217.181 or 218A.1418, **a person is guilty of theft by unlawful taking or disposition when he unlawfully: (a) Takes or exercises control over moveable property of another with intent to deprive him thereof**; (2) Theft by unlawful taking or disposition is a Class A misdemeanor unless the **value of the property is three hundred dollars or more,** or unless the property is a firearm (regardless of the value of the firearm), in which case it is a **Class D Felony.**" (emphasis added)

514.080 Theft by extortion: "(1) A person is guilty of theft by extortion when he intentionally obtains the property of

another **by threatening to**: (b) **Accuse anyone of a criminal offense**; or (c) **To expose a secret tending to subject any person to hatred, contempt, or ridicule, or to impair his credit or business repute; or** (d) **Use wrongfully his position as a public officer** or servant or employee by performing some act within or related to his official duty, **either express or implied, in a manner affecting some person adversely**; (3) Theft by extortion is a Class A misdemeanor unless the value of the **property obtained is three hundred dollars or more**, in which case it is a **Class D felony**." (emphasis added)

514.110 Receiving stolen property: "(1) A person is guilty of receiving stolen property when he receives, retains, or disposes of moveable property of another knowing that it has been stolen, unless the property is received, retained, or disposed of with intent to restore it to the owner. (2) The possession by any person of any recently stolen property shall be ***prima facie*** evidence that such person knew that such property was stolen. (3) Receiving stolen property is a Class A misdemeanor unless the value of the property is three hundred dollars or more, or unless the property is a firearm (regardless of the value of the firearm), in which case it is a **Class D felony**."

516.030 Forgery in the second degree: "(1) A person is guilty of forgery in the second degree when, **with intent to defraud, deceive**, or injure another, **he falsely** makes, **completes, or alters a written instrument** which is or purports to be or **which is calculated to become or to represent when completed**: (a) a deed, will, or codicil, **contract, assignment**, commercial instrument, credit or **other instrument which does or may evidence**, create, transfer, terminate **or otherwise affect a legal right**, interest, obligation, or status; **or (b) A public record or an instrument filed** or required or authorized by law to be filed in or **with a public office or public employee**; (2) Forgery in the second degree is a Class D felony." (emph. added)

523.020 Perjury in the first degree: "(1) A person is guilty of perjury in the first degree when he makes a material

false statement, which he does not believe, in any official proceeding under oath required or authorized by law; (3) Perjury in the first degree is a Class D felony."

523.050 Inconsistent statements: "(1) When a person has made inconsistent statements under oath, both having been made within the period of the statute of limitations, the prosecution may proceed by setting forth the inconsistent statements in a single charge alleging in the alternative that one or the other was not believed by the defendant. In such case it shall not be necessary for the prosecution to prove which statement was false but only that one or the other was false and not believed by the defendant to be true."

524.100 Tampering with physical evidence: "(1) A person is guilty of tampering with physical evidence when, believing that an official proceeding is pending or may be instituted, he: (a) Destroys, mutilates, conceals, removes, or alters physical evidence which he believes is about to be produced or used in the official proceeding with intent to impair its verity or availability in the official proceeding; or (b) Fabricates any physical evidence with intent that it be introduced in the official proceeding or offers any physical evidence, knowing it to be fabricated or altered; (2) Tampering with physical evidence is a Class D felony."

KENTUCKY RULES OF EVIDENCE

K.R.E. 101. SCOPE: "**These rules shall govern all proceedings in the courts of the Commonwealth of Kentucky,** to the extent and with the exceptions stated in KRE 1101." (emphasis added)

K.R.E. 102. PURPOSE AND CONSTRUCTION: "These rules shall be construed to secure fairness in administration, elimination of unjustifiable expense, and promotion of growth and development of the law of evidence **to the end that the truth may be ascertained and proceedings justly determined.**" (emphasis added)

K.R.E. 103. RULINGS ON EVIDENCE: "**(a) Effect of Erroneous Ruling.** Error may not be predicated upon a ruling which admits or excludes evidence **unless the substantial right of the party is affected; and (1)** ***Objection.*** **In case the ruling**

is one admitting evidence, a timely objection or motion to strike appears of record, and upon request of the court stating the specific ground of objection, if the specific ground was not apparent from the context; or (2) *Offer of Proof.* In...

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case the ruling is one excluding evidence, upon request of the examining attorney, the witness may make a specific offer of his answer to the question. (c) **Hearing of Jury. In jury cases, proceedings shall be conducted**, to the extent practicable, **so as to prevent inadmissible evidence from being suggested to the jury by any means**, such as making statements or offers of proof or asking questions in the hearing of the jury." (emph. added)

K.R.E. 105. LIMITED ADMISSIBILITY: "(a) When evidence which is admissible as to one (1) party or for one (1) purpose but not admissible as to another pary or for another purpose is admitted, **the court**, upon request, **shall restrict the evidence to its proper scope and admonish the jury accordingly.**" (emphasis added)

K.R.E. 106. REMAINDER OF OR RELATED WRITINGS OR RECORDED STATEMENTS: "When a writing or recorded statement or part thereof is introduced by a party, an adverse party may require the introduction at that time of any other part or any other writing or recorded statement which ought to be considered contemporaneously with it."

K.R.E. 107. MISCELLANEOUS PROVISIONS: "**(b) Effective date**: The Kentucky Rules of Evidence shall take effect on the first day of July, 1992. **They shall apply to all** civil and **criminal actions and proceedings** originally brought on for trial after that date and to pretrial motions or matters originally presented to the court for decision upon or after that date if a determination of such motions or matters requires application of evidence principles; provided, however, that **no evidence shall be admitted against a criminal defendant in proof of a crime committed prior to July 1, 1992**, unless that evidence would have been admissible under evidence principle in existence prior to adoption of these rules."[39] (emphasis added)

K.R.E. 201. JUDICIAL NOTICE OF ADJUDICATIVE FACTS: "(b) Kinds of Facts. A judicially noticed fact must be one not subject to reasonable dispute in that it is...(2) Capable of accurate and ready determination by resort to sources whose accuracy cannot be reasonably be questioned. ...(d) **When Mandatory. A court shall take judicial notice** if requested by a party and supplied with the necessary information. (f) **Time of taking notice.** Judicial notice may be taken **at any stage of the proceeding.** (g) **Instructing the Jury. The court shall instruct the jury** to accept as conclusive any fact judicially noticed. (emphasis added)

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[39] **A complete copy of these prior rules will be requested in discovery herein.**

K.R.E. 401. DEFINITION OF "RELEVANT EVIDENCE": "Relevant evidence" means evidence having any tendancy to make the existence of any fact that is of consequence to the determination of the action more probable or **less probable than it would be without the evidence."** (emphasis added)

K.R.E. 402. "All relevant evidence is admissible, except as otherwise provided by the Constitution of the United States and the Commonwealth of Kentucky, by the acts of the General Assembly of the Commonwealth of Kentucky, by these rules, or by other rules adopted by the Supreme Court of Kentucky. (emphasis added)

K.R.E. 403. EXCLUSION OF RELEVANT EVIDENCE ON GROUNDS OF PREJUDICE, CONFUSION, OR WASTE OF TIME: "Although relevant, evidence may be excluded if its probative value is **substantially outweighed by the danger of undue prejudice, confusion of the issues, or misleading the jury...**" (emphasis added)

K.R.E. 404. CHARACTER EVIDENCE AND EVIDENCE OF OTHER CRIMES: "(a) Character Evidence Generally: Evidence of a persons character is **not admissible** for

the purpose of proving action in conformity therewith on a particular occasion, except: (1) *Character of accused*: Evidence of a pertinent trait of character or of the general moral character **offered by the accused**...; (2) *Character of Victim Generally*: Evidence of a pertinent trait of character of the victim of the crime **offered by the accused**...; **(b) Other Crimes, Wrongs, or Acts**. Evidence of other crimes, wrongs, or acts **is not admissible** to prove the character of a person in order to show action in conformity therewith. ...**(c) Notice Requirement**. In a criminal case, if the prosecution intends to introduce evidence pursuant to subdivision (b) of this rule as a part of its case in chief, it **shall give reasonable pretrial notice to the defendant** of its **intention** to offer such evidence. **Upon failure of the prosecution to give such notice the court may** exclude the evidence offered under subdivision (b) or for cause shown may excuse the failure to give such notice and **grant the defendant a continuance or such other remedy as necessary to avoid unfair prejudice caused by such failure.**" (emphasis added)

K.R.E. 405. METHODS OF PROVING CHARACTER: "**(a) Reputation or opinion.** In all cases in which evidence or a trait of character of a person is admissible, proof **may be made** by testimony as to general reputation in the community or by testimony **in the form of opinion**. **(c) Specific Instances of Conduct**. In cases in which character of a person is an essential element of a charge, claim, or defense, **proof may also be made of specific incidents in that person's conduct.**" (emphasis added)

K.R.E. 504. HUSBAND-WIFE PRIVILEGE: "**(a) Spousal Testimony**. ...A person has a **privilege** to prevent his or her spouse from testifying against the party as to events occurring after their marriage. **(b) Marital Communications**. An individual has a right to refuse to testify and **to prevent another from testifying to any confidential communication** made by the individual to his or her spouse **during their marriage**. ...A communication is confidential if it is made **privately by an**

individual to his or her spouse and is not intended for disclosure to any other person." (emphasis added)

K.R.E. 602. LACK OF PERSONAL KNOWLEDGE. "A witness may not testify to a matter unless evidence is introduced to support a finding that the witness has **personal knowledge** of the matter." (emphasis added)

K.R.E. 1101. APPLICABILITY OF RULES. "**(a) Courts.** These rules apply to **all the courts of this Commonwealth in the actions, cases, and proceedings** and to the extent hereinafter set forth. ...**(c) Rules on Privileges.** The rules with respect to **privileges apply at all stages of all actions, cases, and proceedings.**" (emphasis added)

D. CITES TO THE RECORD

1. The civil action in support of which this "MEMORANDUM & MEMORANDUM OF LAW" is being filed revolves around the lengthy (twenty-six year) marriage, and eventual divorce, of Plaintiff James G. Akers and Defendant Carolyn P. Bishop. It does further encompass, beginning in May of 1994 and continuing through July 7, 2000, **in excess of forty-one (41) compelled court appearances** by Akers in the Domestic Relations/Domestic Violence Divisions of Fayette [Kentucky] District, Fayette [Kentucky] Circuit Court, and Nashville/Davidson County [Tennessee] General Sessions & Circuit Courts, and includes **two (2) separate Pre-trial Conferences**; at least **five (5) separate Arraignments** in...

Fayette District Court; **two (2) Extradition Hearings** in the Nashville/Davidson County [Tennessee] General Sessions Court; **two (2) separate three-day Trials** in Fayette [Kentucky] Circuit Court; as well as **three (3) distinctly separate actions** in the Kentucky Court of Appeals by Akers, **two (2) of which resulted in "reversal"**. Consequently, the "state court record" necessarily referred to herein, in relevant part, is contained within **literally volumes** of documentation, audio/video recordings, and transcripts which, in their entirety, would be

impractical, **if not virtually impossible**, to incorporate herewith in any form other than "by reference only". Therefore, all the hereinafter references to the "state court record" shall refer only to the "sworn witness" (or other such principal) quoted herein; tape number ("TT" for Trial Tape, "CP" for Certified Portions of Hearings, etc.); the date of recording of that tape; and the approximate time of the testimony and/or proceeding (see "APPENDIX" bound herewith for enumerations noted "Incorporated by reference only"). All additional hereinafter references and/or citations, including quoted excerpts of transcripts/audio recordings of proceedings within the Domestic Relations/Domestic Violence Divisions of Fayette [Kentucky] District Court, the Fayette [Kentucky] Grand Jury, and documentation in support of the herewith contemporaneously-filed civil action, are as referred to within the text hereof in alpha-numeric order, and appended hereto in the form of "EXHIBITS" [see "APPENDIX"].

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E. STATEMENT OF THE CASE

INTRODUCTION

1. As hereinbefore stated, the criminal prosecutions which give rise to the accompanying civil action filed concurrently herewith revolve around the lengthy (twenty-six year) marriage, and eventual divorce, of Plaintiff James G. Akers (hereinafter "Akers") and Carolyn P. Bishop (hereinafter "Bishop"), and allegations that Akers intentionally caused "serious physical injury" to Bishop on, or about May 4, 1994, with his hands, and then "stalked" her from November of 1994 until May of 1995. [see Indictment No. 95-CR-984, Exhibit "A"]

2. Notwithstanding Bishop's **obvious** violations of, ***inter alia***, **Title 18 U.S.C. §§ 873, 875, 876, 1341, 1503, 1512(b)(2) (B) & Title 42 U.S.C. §§ 1983 & 1985** of the **United States Codes**; **and K.R.S. 514.030, 514.080, 523.020, 523.050, & 524.100** of the **Kentucky Revised Statutes**; together with Bishop's exploitation and/or abuse of the criminal justice system of the

Commonwealth of Kentucky in the implementation and concealment thereof; **the facts** with respect to those events preceding, contemporaneous with, and subsequent to, events of May 4, 1994, are as set forth in the Affidavits of the Plaintiff James G. Akers, Deborah L. Harvil, Woodsie E. Akers, Alan P. Akers, A. Wayne Akers, Stacy B. Akers, Beaulahvene Brown, Darryl Brown, Charlotte S. Kirby, and Dennis R. Akers, all of which such Affidavits are appended hereto as Exhibits "B" through "K", respectively. The facts...

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contained therein are **wholly-supported by the "state court record"** in Akers' case(s) more particularly depicted as [Fayette District Court] "94-D-00396-001" together with [Fayette Circuit Court] "Indictment Number 95-CR-984", and are supplemented and/summarized as hereinafter follows:

BACKGROUND FACTS

3. Akers and Bishop first met on May 23, 1967, near Jenny Wiley State Park near Prestonsburg, Floyd County, Kentucky.

4. Having dated on a regular basis over the succeeding seventeen months; on October 19, 1968, Akers and Bishop entered into a **public contract** of marriage at Prater Memorial Methodist Church in Salyersville, Kentucky, **specifically conditioned** upon mutual covenants and promises, ***inter alia***, to: "forsaking all others, to love and honor"; "to have and to hold"; "in sickness and in health"; "in poverty and in wealth"; "'til death do [they] part". **Additionally**, Akers and Bishop agreed that, as a "blueprint" for their marriage, [they] would respect **all** of those principles set forth in I Corinthians-Chapter 7 [King James Version], i.e., ***inter alia***, as follows:

> "2. Nevertheless, because of sexual immorality, let each man have his own wife, and let each wife have her own husband.
>
> 3. Let the husband render unto his wife the

affection due her, and likewise also the wife to her husband.

5. Do not deprive one another except with consent for a time, that you may give yourselves to fasting and...

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prayer; and come together again so that Satan does not tempt you because of your lack of self-control.

10. Now to the married I command, yet not I but the Lord: A wife is not to depart from her husband.

11. But and if she depart, let her remain unmarried or be reconciled with her husband. And a husband is not to divorce his wife.

37. A wife is bound by the law as long as her husband lives; but if her husband dies, she is at liberty to be married to whom she wishes, only in the lord."[40]

5. Akers and Bishop are the natural parents of two sons: Anthony Wayne Akers (hereinafter "Wayne"), born August 5, 1969; and Alan Patrick Akers (hereinafter "Alan"), born June 18, 1974.

6. Akers and Bishop are the natural grandparents of three grandchildren: Megan A. Akers (hereinafter "Megan"), born April 9, 1989; Shanan N. Akers (hereinafter "Shanan"), born July 31, 1990; & A. Shane Akers (hereinafter "Shane"), born May 1, 1992.

7. During their marriage, Akers and Bishop consecutively maintained residences in: Prestonsburg, Kentucky; Lexington, Kentucky; Nashville, Tennessee; Knoxville, Tennessee; and Brownsburg, Indiana.

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[40] Admittedly, "marriage contracts" do not appear to be enforceable under Kentucky law, notwithstanding provisions of **ARTICLE I-SECTION 10 [1.]**, U.S. Constitution [supra, page 6 hereof, i.e., "**No state shall...pass any** bill of attainer, ***ex post facto*** **law** <u>**or**</u> **law impairing the obligation of contracts**" (emphasis added)] and **Ky Const § 19 (1)** [supra, page 26 hereof, i.e., "**No** <u>**ex**</u>

post facto law, ...shall be enacted" (emphasis added)]. Nonetheless, these facts, when coupled with those facts in hereinafter paragraphs E-5 thru E-9, E-19 thru E-21, E-28, E-29(d) & (e), E-31 thru E-34, E-38, E-45 thru E-47, E-50, E-56, E-62, & E-64, ***inter alia***, **cannot be ignored** as the single most compelling motivation for Akers' conduct which eventually resulted in charges of "stalking".

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8. In September of 1978, Akers began to alert Bishop that she was developing a "hump" in the cervical area of her neck and to caution her about her "poor posture" as the suspected cause.

9. At some time during the month of July, 1989, Bishop vowed to members of Akers' family that: "If Gorden ever goes out on **me, I will fix him!**"

10. (a) Being completely unaware of Bishop's threat in hereinabove paragraph E-9, on May 31, 1991, Akers apologetically informed Bishop of an event during the time he was working in Dallas, Texas, in November of 1981, during which he became intimate with another woman but refrained from engaging in sexual intercourse with that woman but; (b) Bishop became furious with Akers and; (c) yelled: **Gorden!, why were you in that situation in the first place!**"

11. In June of 1984, Bishop began complaining to Akers and numerous family members that she was experiencing severe pain in her neck and back and that her work at a bank seemed "to make it worse". [see Exhibits "B" through "K" hereto]

12. (a) On July 14, 1993, the Commonwealth of Kentucky State Legislature enacted its new "Domestic Violence and Abuse" laws (K.R.S. 403.710, et seq.) which significantly enhanced all corresponding laws which had been in effect since July 13, 1984; and (b), shortly thereafter, Lexington-Fayette [Kentucky] Urban County Government/Mayor, Pamela Miller (hereinafter "Miller"), then Deputy Sheriff, Katherine Witt (hereinafter "Witt"), and...

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various individuals known only as a group of individual persons and/or public officials within the Lexington-Fayette

[Kentucky] Urban County Government (hereinafter "LFG Does 1 through 50") conspired to secure their individual and collective political positions and goals by devising, implementing, and enforcing policies for the express purpose of empowering their primary political base (i.e., the women of Fayette County, Kentucky) to unconstitutionally and/or unlawfully seize and withhold the property of their "significant others", with intent to deprive them thereof and, in effect, directing that: "[i]n all cases of alleged 'domestic violence', whether legitimate or otherwise, **the 'man' goes to jail.**"[41]

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[41] See United States Constitution [supra, page 5 hereof, et seq.], i.e., **FOURTH AMENDMENT**: "The right of the people to be secure in their **persons, houses, papers, and effects**, against unreasonable searches and **seizures**, shall not be violated, and **no Warrants shall issue, but upon probable cause**" (emphasis added); **FIFTH AMENDMENT**: "No person shall **be held** to answer for... infamous crime, **unless on a presentment or indictment** of a Grand Jury, ...**nor be deprived of**...**liberty, or property, without due process of law**" (emphasis added); **FOURTEENTH AMENDMENT**: "**All persons** born or naturalized in the United States, and subject to the jurisdiction thereof, are **citizens of the United States** and of the **State wherein they reside**. **No State** shall make or enforce **any law** which shall abridge the privileges or immunities of citizens of the United States; **nor shall any state deprive any person of life, liberty, or property, without due process of law**; nor deny any **person within its jurisdiction equal protection of the laws**" (emphasis added); and United States Codes Annnotated [supra, page 11 hereof, et seq.], i.e., **TITLE 18 U.S.C. § 2. Principals**: "(a) Whoever **commits** an offense against the United States or **aids, abets, counsels**, commands, **induces, or procures** its commission, **is punishable as a principal**. (b) Whoever willfully causes an act to be done which if directly performed by him or another would be an offense against the United States, is punishable as a principal." (emphasis added); **TITLE 18 U.S.C. § 3. Accessory after the fact:** "Whoever, knowing that an offense against the United States has been committed, **receives, relieves**, comforts **or assists** the offender in order to hinder or prevent his apprehension, trial or punishment, **is an accessory**..." (continued, page 48 hereof)

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13. On August 25, 1994, Akers received a sizeable cash settlement pursuant to a previous business venture involving his then operating corporation, Coleman/Akers & Akers, Incorporated, but was at the time, **and yet remains**, prohibited

from disclosing the terms and conditions thereof pursuant to a "Non-disclosure Agreement" executed concurrently with the "settlement agreement" and forming an integral part thereof.

14. During Thanksgiving weekend of 1993, Bishop expressed to several members of Akers' family that she was (a) "unhappy" in her marriage to Akers and "just waiting for the right chance to get out of it"; (b) that she had not "seen any of [that money in hereinabove paragraph E-13] yet"; (c) that she had "been offered a job in Cincinnati and [would] probably take it"; and (d) that some of her "friends at Central Bank and [certain...

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[41] United States Codes Annnotated (continued from page 47 hereof): "... **after the fact**." (emphasis added); **TITLE 18 U.S.C. § 5. United States defined**: "The term 'United States', as used in this title in a territorial sense, includes **all places** and waters, continental or insular, **subject to the jurisdiction of the United States**, except the Canal Zone." (emphasis added); **TITLE 18 U.S.C. § 1503. Influencing or injuring officer or juror generally**: "(a) Whoever **corruptly...endeavors to influence or impede any grand or petit juror**, or officer in or of any court of the United States, ...**or endeavors to influence, obstruct, or impede, the due administration of justice**, shall be punished as provided in subsection (b)." (emphasis added); **TITLE 18 U.S.C. § 1512. Tampering with a witness, victim, or an informant**: "(b) Whoever knowingly uses **intimidation ...or corruptly persuades** another person, **or attempts to do so**, or engages in misleading conduct toward another person, **with intent** to -- (1) **influence**, delay, **or prevent**...**testimony of any person** in an official proceeding; (2) **cause or induce any person to** -- (A) withhold testimony, or withhold a record, document, or other object from an official proceeding; (B) **alter**, destroy, **mutilate**, or conceal **an object with intent to impair the object's integrity** or availability in an official proceeding; shall be fined under this title or imprisoned not more than ten years, or both." (emphasis added); (continued, page 49 hereof)

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members of her] family" had been advising her to "leave [Akers] and then divorce him and take everything [Akers] has."[42]

15. During the week before Christmas, 1993, (a) Bishop had an allergic reaction to Amoxycillin; (b) was taken to an Emergency Room of a Lexington area hospital on two occasions by Akers; (c) fainted in the couple's bathroom due to **extreme**

constipation; (d) was revived by Akers; and (e) reacted by stating to Akers: "Thank you for saving my life!".

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[41] United States Codes Annnotated (continued from page 48 hereof): **TITLE 42 U.S.C. § 1983. Civil action for deprivation of rights**: "**Every person** who, **under color of any statute, ordinance, custom**, or usage, **of any State** or Territory or the District of Columbia, **subjects, or causes to be subjected, any citizen of the United States** or other person within the jurisdiction thereof **to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws**, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress;" (emphasis added)'; and **TITLE 42 U.S.C. § 1985. Conspiracy to interfere with civil rights**: "(2) If **two or more persons in any State** or Territory or the District of Columbia **conspire** to...influence the verdict, presentment, or indictment of any grand or petit jury..., or **if two or more persons conspire** for the purpose of impeding, hindering, obstructing, or defeating, **in any manner, the due course of justice in any State or Territory, with the intent to deprive any citizen equal proection of the laws**, or to injure him or his property for lawfully enforcing, or **attempting to enforce**, the right of any person, **or class of persons**, to the equal protection of the laws; (3) ...**in any case of conpiracy** set forth in this section, if **one or more persons** engaged therein **do, or cause to be done, any act in furtherance of the object of such conspiracy**, whereby another is injured in his person **or property, or deprived of having and exercising any right or privilege** of a citizen of the United States, the party so injured or deprived may have an action for the recovery of damages occasioned by such injury or deprivation, against one or more of the conspirators;" (emphasis added)

[42] Akers was not aware of **any of these facts** until June of 1997, when informed thereof by members of Akers' family and **while Akers was imprisoned at Eastern Kentucky Correctional Complex**, in West Liberty, Kentucky (within the Kentucky Department of Corrections) pursuant to his **first convictions** as outlined in hereinafter paragraphs E-31 through E-38, E-40 through E-42, E-48, E-56, E-58, E-60 through E-68, & E-70 through E-86.

CONSPIRACIES ARE BORN

16. In early January of 1994, Bishop informed Akers that her friend, Doris Fleming (hereinafter "Fleming"), as well as numerous other co-workers at Central Bank & Trust Company, Incorporated (hereinafter "CBT"), had been advising her to

"divorce [Akers] and take everything he has".

17. During the succeeding three months, of January to April of 1994, Bishop became virtually impossible to placate any manner and the Akers' homelife became all but unbearable.

18. In early March of 1994, Bishop assaulted the Akers' granddaughter, Shannan, for only refusing to drink the beverage Bishop had given her to drink with her meal. Although Akers was extremely distraught by Bishop's behavior, his only reaction was to tell Bishop that he "strongly disapprove[d] of what [she had] just done".

19. It being obvious to Akers that his family needed "new direction", Akers was baptized in, and transferred his church membership to Southland Christian Church of Lexington, Inc. (hereinafter "SCC") on March 27, 1994. It was at that event that Akers first had any substantive contact with Todd Layne (hereinafter "Layne"), a Pastoral Counselor at SCC.

20. On the following Sunday of April 3, 1994, Bishop transferred her church membership to SCC, as well.

21. During the succeeding month or so, upon insistence of Bishop, the Akers' sought the counsel of Robert Pitman, a...

Pastoral Counselor in the Lexington, Kentucky, area, in effort to resolve and/or reconcile all of their marital difficulties. When Pitman encouraged Bishop to recognize and correct her "own faults", however, Bishop terminated Pitman's counsel and sought the counsel of Layne.

22. Akers has never wanted, sought, nor consented to accept the counsel of Layne who, at the time, was only twenty-four years of age; had been married less than two years; and had only one child yet in early infancy.

23. On April 7, 1994, Bishop returned to the Akers' home, from shopping, and attempted to provoke Akers into an argument over something to do with "H & R Block" and "income taxes". When Akers refused to engage in an argument with Bishop, she angrily left home with the Akers' son, Alan, and refused to return for the succeeding ten days.

24. At various times beginning on, or about, April 8, 1994, the herein Defendants Fleming, Layne, and yet unidentified co-conspirators at CBT (hereinafter "CBT Does 1 through 40") and SCC (hereinafter "SCC Does 1 through 50") continued to encourage Bishop to "divorce [Akers] and take everything he has"[43], those said Defendants and co-conspirators being aware of those facts in hereinabove paragraphs E-12 through E-14.

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[43] See, e.g.: **Title 18 U.S.C. § 2** [supra, page 11 hereof], i.e, "(a) Whoever **commits** an offense against the United States or **aids, abets, counsels,** commands, **induces, or procures** its commission, **is punishable as a principal.** (b) Whoever **willfully causes an act to be**..." (continued, page 52 hereof)

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25. Bishop, under the advice of Fleming and Layne, attended a Bible Study Class at SCC on April 13, 1994, during that time Bishop was separated from Akers as set forth in the hereinabove paragraphs E-4, E-14, E-16, & E-26.

26. (a) Bishop, having already removed her wedding band (see hereinabove paragraphs E-4, E-11, & E-21), initiated and/or acquiesced to an introduction to a man yet unknown to Akers, one Donald Shannon (hereinafter "Shannon") who, at the time: was (b) in the process of divorcing his wife of over twenty-five years; was (c) a deacon at SCC; and was (d) a Commercial Loan Officer at Bank One, Lexington, NA, where he had access to the financial records of Akers and hereinabove C/AA.

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[43] **Title 18 U.S.C. § 2** (continued from page 51 hereof): "... **done** which if directly performed by him or another would be an offense against the United States, is punishable as a principal." (emphasis added); **Title 42 U.S.C. § 1983** [supra, page 16 hereof], i.e., "**Every person** who, **under color of any statute**, ordinance, custom, or usage, **of any State** or Territory or the District of Columbia, **subjects, or causes to be subjected, any citizen of the United States** or other person within the jurisdiction thereof **to the deprivation of any rights, privileges, or**

immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress." (emphasis added); **K.R.S. 514.030** [supra, page 34 hereof], i.e., "(1) Except as otherwise provided in KRS 217.181 or 218A.1418, **a person is guilty of theft by unlawful taking or disposition when he unlawfully: (a) Takes or exercises control over moveable property of another with intent to deprive him thereof**; (2) Theft by unlawful taking or disposition is a Class A misdemeanor unless the **value of the property is three hundred dollars or more**, or unless the property is a firearm (regardless of the value of the firearm), in which case it is a **Class D Felony**." (emph. added); **K.R.S. 514.080 Theft by extortion**: "(1) A person is guilty of theft by extortion when he intentionally obtains the property of another **by threatening to**: (b) **Accuse anyone of a criminal offense**; or (c) **To expose a secret tending to subject any person to hatred, contempt, or ridicule, or to impair his credit or business repute**...; (3) Theft by extortion is a Class A misdemeanor unless the value of the **property obtained is three hundred dollars or more**, in which case it is a **Class D felony**." (emphasis added).

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27. The following day, April 14, 1994, Shannon contacted Bishop at her office at CBT and a "rendezvous" was arranged for later that same day.

28. **Yet being <u>totally unaware</u> of those facts in herein above paragraphs E-9, E-11, E-12, E-14, E-24, and E-25 through E-27**; (a) Akers waited at the residence of the Akers' son, Wayne, until around 10:30 p.m. on April 14, 1994 in an effort to encourage Bishop to return to their home. (b) It being Akers' objective to restore harmony to his marriage and family, he then inquired of Bishop as to "the three worst things [Akers had ever done to Bishop] and, if [they could] deal with those, then surely [they could] deal with all the others". (c) Bishop's only response to Akers' inquiry was in reference to an occasion in August, 1967, when Akers allegedly "undressed [Bishop] and made [her] stand before [Akers] at [Akers'] parents' house". (d) Being **<u>flabbergasted</u>** by Bishop's response, and upon her adamant refusal to return home, Akers purchased a rose for Bishop, presented it to her, and told her: "I just want you to get better"; and (e) Akers promptly returned to the couple's marital home in total despair.

29. (a) Over the succeeding four days of April 15 through April 18, 1994, Bishop refused to return to the Akers' marital home until she was "reasonably sure" that Akers was unaware of those facts as outlined in hereinabove paragraphs E-24 through E-27, and without concurrence thereof by Layne and Robert Pitman. (b) On the evening of April 18, 1994, Akers and Bishop...

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met with Pitman; (c) Bishop received the assurances she was seeking; (d) returned home with Akers and was; (e) treated "like a queen" over the succeeding three weeks by Akers.

30. On May 1, 1994, Bishop again assaulted one of Akers' grandchildren (hereinabove "Shane"), while shopping with him for his **second birthday**. Akers, being already extremely troubled by that event in hereinabove paragraph E-18, advised Bishop that no further such mistreatment of the Akers' grandchildren would, **or could**, be tolerated.

31. On May 4, 1994, Akers and Bishop attended a Bible Study Class at SCC during which; (a) Akers noticed Bishop and a man unknown to Akers (later learned to be Shannon) behaving in an "interesting" manner toward each other. (b) At the end of the class, Akers noticed this same man "glaring" at Bishop's "mid-section" in a manner which; (c) was, at the very least, "inappropriate" in a church atmosphere. (d) En route back to the Akers' marital home, Akers inquired of Bishop as to the identity of the unknown man and how she knew him. (e) Bishop responded to Akers' inquiries to the effect that: "I don't know, I've never seen him before". (f) Then puzzled by Bishop's responses, Akers questioned Bishop further upon their arrival at home. (g) After admitting that she had initially lied to Akers because of the way he "would react", Bishop disclosed that she had "met [Shannon] at Bible Study a few weeks ago shared [her] bible with him". (h) Akers, being upset that Bishop had lied to him as she had done so many times before, and being concerned

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about the affect Bishop's behavior at the Bible Study Classes might have on the Akers' standing in the church, called a "time out" and took the Akers' dog for a walk. (i) Upon returning a few minutes later, Akers noticed that Bishop had already gone to the couple's bedroom to prepare for bed. (j) Akers then sat down at the couple's kitchen table just to "think things over". (k) At about 10:30 p.m., Bishop "stormed" into the kitchen and screamed: "I'm going to ask you just on time to come on to bed with me!" (l) Akers reacted: "No, I want to sit here and think for a while. I'll be up a little later". (m) Bishop then went to bed. (n) At approximately 11:30 p.m., Akers went to the couple's bedroom to prepare for bed, as well. (o) Upon entering the couple's bedroom, Akers noticed Bishop lying, as closely as possible, to "her side" of the bed. (p) Akers then thought to himself: "Well, I've certainly seen this before. I'll 'sleep on it' and approach her again in the morning." (q) Akers then quietly prepared for bed, laid down, and went to sleep. (r) At approximately 2:15 a.m. on May 5, 1994, Akers awakened; (s) gently nudged Bishop, and; (t) said to Bishop: "Carolyn, I'd really like to know the truth." (u) Bishop then turned toward Akers and screamed: "**Gorden, I already told you the truth! You are <u>not going to cross-examine</u> me! ...etc., etc.!**". (v) Akers then got out of bed, went to the couple's bathroom to wash his face with cold water, and then returned to the couple's bed; (w) intending only to remove Bishop from the bedroom until she "cooled down". (x) Before Akers reached the bed, however, ...

Bishop sprang to her feet and began to "flog" Akers' face and chest with her fists. (y) Using only his torso and open arms (to guide only), Akers forced Bishop out of the bedroom, and (z) just outside the bedroom door, Bishop "plopped down" in the hallway floor, brushing Akers at his knees with her buttocks; (aa) causing Akers to lose his balance and; (bb) Akers' left hip made an indention (**7-inch diameter by 1/2-inch deep, <u>max.</u>**) in the hallway drywall partition. (cc) Akers then kicked Bishop on her left buttocks with the inside (arch) portion of his bare left

foot; (dd) Bishop then struck Akers in his groin with her right fist. (ee) **As purely a <u>reaction</u>, and instantly reflecting upon those events in hereinabove paragraphs E-18 & E-30**, Akers then slapped Bishop on her left lip, **<u>in a restrained mannner</u>**, with his open right hand. (ff) Akers then stepped back into the couple's bedroom, slammed the door, and locked it. (gg) The Akers' son, Alan, emerged from his bedroom and asked: "What's going on out here?" (hh) Akers then stepped out of his bedroom and said: "I'm going for a drive. I'll be back in about an hour." (ii) Akers then went for a drive but returned about twenty minutes later, and; (jj) Upon entering the Akers' front door, Akers noticed Bishop standing at the Cloak Closet, ready to leave home. (kk) Akers asked Bishop: "Can't we, at least, sit down and talk about this?"; (ll) Bishop retorted: "**I don't think so!**" (mm) Akers then went to the kitchen table to try and figure out: "What on earth happened here?". (nn) Bishop then entered the kitchen (apparently to get something) and Akers said...

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to her: "You know, my Dad told me a long time ago you weren't shooting straight with me. Now I think I know what he meant." (oo) Bishop responded angrily: "**Well, at least I didn't do what you did in Dallas!**" (referring to a pseudo-adulterous event, in November of 1981, which Akers had informed Bishop of on May 31, 1991). (pp) The hereinabove is the **<u>total extent</u>** of the alleged "assault" of Bishop on May 4 (and/or 5), 1994. (qq) Bishop and the Akers' son, Alan, then left the Akers' home, Bishop slammed the door behind her, and drove to Akers' mother's home (approximately four miles away) where they spent the balance of the night. (rr) Bishop slept in the same bed with Akers' elderly mother, Woodsie Akers (hereinafter "Woodsie) for the balance of the night and; (ss) resumed normal work activities at CBT less than six hours after the hereinabove altercation. (tt) **Other than a <u>slightly-swollen</u> lip, Alan and Woodsie saw <u>no signs of injury to Bishop</u>**; (uu) **Bishop <u>did not complain</u> of, <u>or otherwise mention</u>, any injuries**; and (vv) behaved essentially "normally" other than being "emotionally" upset. [see TT#2, A.

P. Akers, 05/21/96, 11:32:30 et seq.; TT#2, W. E. Akers, 05/21/96, 14:27:40; and TT#3, A. P. Akers, W. E. Akers, 10/28/98, 09:23:00, et seq., & TT #3, 10/27/98, 17:49:45, et seq.]

32. In response to Akers' attempts at a reconciliation over the succeeding five days, Bishop sought, and obtained, an "Emergency Protection Order" against Akers on May 10, 1994 [see Exhibit "L" hereto]. As the basis therefor, Bishop tendered her Affidavit which stated as follows: **"[t]oday, May 10, 1994, he**

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is intoxicated and calling me at work continuously. I am afraid I will lose my job if he doesn't stop. On May 4, he hit me and kicked me and I left home". [Exhibit "M" hereto (emph. added)]

33. In early evening, on May 11, 1994, Akers was "served" with the hereinabove "Order and Summons" and, on May 12, 1994, Akers was arrested for purportedly violating that order by contacting Bishop **by telephone** after being served.

34. On May 13, 1994, Akers was arraigned before Fayette District Judge Thomas Clark (hereinafter "Clark") on the charges of "Domestic Violence" and "Contempt of Court" [see Transcript, Exhibit "N" hereto]. Hereunto relevant portions of the audio transcript of that arraignment include, but are not limited to, the following:

Judge Clark: Mrs. Akers, ...Would you raise your right hand, please? Do you swear that the testimony you're about to give to be the truth, the whole truth, and nothing but the truth? [Page 1, lines 6 through 14]

[Bishop]: I do. [page 1, line 16]

Judge Clark: What I propose to do at this point is since the domestic violence hearing is going to go ahead and be heard on May the 24th, is

go ahead and continue this contempt until May the 24th as well. [page 7, lines 15 thru 23]

Mr. Akers: I can assure The Court, I will not contact her again. I mean -- it's very clear to me now, I can assure you, it was not clear to me before but it's very, very clear to me now. [page 8, lines 14 through 17][44]

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[44] "[In indirect civil contempt proceedings, the] **contemnor** holds the keys to the jail in his pocket and **is entitled to immediate release upon his willingness to abide by the court's orders**." (continued, page 59 hereof)

Judge Clark: I'll advance the domestic violence,[45] ... continue the contempt[46] to May the 19that 9:30 in this court room. [page 10, lines 1 through 7]

Judge Clark: Mr. Akers, I considered your counsel's comments in regards to your release from custody. ...I'm going to leave your bond as presently set and you'll remain in custody unless bond is posted. [page 10, lines 14 through 23; page 11, line 1]

Todd Layne: I am one of the ministers at Southland Christian Church and we have worked with both these people. One of the things we've tried to get them to do is make some tough decisions about their relationship, and especially Gordon [Akers] about the treatment center, and Gordon has been unwilling to do that up

to now, so if you could put some - something behind it to make sure he goes because he has chose a treatment center before but has not chosen to stay. ...**that would be our recommendation that you put something behind it to make sure he's there**.[47] [page 12, lines 12 thru 23; page 13, lines 1 thru 21] (emphasis added)

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[44] (continued from page 58 hereof): See also: **K.R.S. 403.760** [supra, page 28 hereof], i.e., "(1) **Violation of the terms or conditions of an order, under the provisions of KRS 403.740 or...**" **403.750**, whether an emergency protective order, or an order following hearing, after service of the order on the respondent, or notice to the respondent, **shall constitute contempt of court**; (5) **Civil proceedings and criminal proceedings are mutually-exclusive. Once either has been initiated, the other may not be undertaken regardless of the outcome of the original proceeding**." (emphasis added); **K.R.S. 403.780** [supra, page 28 hereof], i.e., "**Testimony offered by an adverse party** in a hearing held pursuant to the provisions of 403.745 **shall not be admissible in any criminal proceeding involving the same parties**." (emphasis added); and hereinafter paragraphs E-86.V(b) & E-110.V(a)

[45] See also: Hereinafter paragraph E-38 and corresponding footnote [51].

[46] See also: Hereinafter paragraph E-38 and corresponding footnote [52].

[47] Layne was **not under oath**. See: United States Constitution, e.g., **ARTICLE IV-SECTION 2** [supra, page 6 hereof], i.e., "[1.] The citizens of each state shall be entitled to **all privileges and immunities** of citizens in the several states" (emphasis added); **FOURTH AMENDMENT** [id., page 7 hereof], i.e., "The right of the people to be secure..." (continued, page 60 hereof)

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[47] **FOURTH AMENDMENT** (continued from page 59 hereof): "...in their **persons**, houses, papers, and effects, against unreasonable searches and **seizures**, shall not be violated." (emphasis added); **FIFTH AMENDMENT** [id., pages 7 & 8 hereof], i.e., "No person shall **be held** to answer for...infamous crime, **unless on a presentment or indictment** of a Grand Jury, ...**nor be deprived of** ...**liberty**, or property, **without due process of law.**" (emphasis

added); **FOURTEENTH AMENDMENT** [id., pages 10 & 11 hereof], i.e., "**All persons** born or naturalized in the United States, and subject to the jurisdiction thereof, are **citizens of the United States** and of the **State wherein they reside**. **No State** shall make or **enforce** any law which shall abridge the privileges or immunities of citizens of the United States; **nor shall any state deprive any person of life, liberty, or property, without due process of law**; nor deny any **person within its jurisdiction equal protection of the laws**" (emph. added). **See Also**: **TITLE 18 U.S.C. § 2** [id. page 11 hereof], i.e., "(a) Whoever **commits** an offense against the United States or **aids, abets, counsels**, commands, **induces, or procures** its commission, **is punishable as a principal**. (b) Whoever willfully causes an act to be done which if directly performed by him or another would be an offense against the United States, is punishable as a principal." (emphasis added); **TITLE 18 U.S.C. § 5** [id., pages 11 & 12 hereof], i.e., "**United States defined:** The term "United States", as used in this title in a territorial sense, includes **all places** and waters, continental or insular, **subject to the jurisdiction of the United States**, except the Canal Zone." (emphasis added); **TITLE 18 U.S.C. § 1201. Kidnapping** [id., page 12 hereof], i.e., "(a) Whoever, unlawfully **seizes, confines, inveigles, decoys, kidnaps, abducts, or carries away and holds** for ransom or reward **or otherwise** any person, except in the case of a minor by the parent thereof, when -- (1) the person is **willfully transported in interstate commerce**; (2) any such act against the person is done within the special maritime jurisdiction of the United States; (b) With respect to subsection (a)(1) above, the failure to release the victim within twenty-four hours after he shall have been unlawfully seized, confined, inveigled, decoyed, kidnapped, abducted, or carried away shall create a rebuttable presumption that such person has been transported in interstate or foreign commerce. (c) **If two or more persons conspire to violate this section** and one or more of such persons do any covert act to effect the object of the conspiracy, each shall be punished by imprisonment for any term of years or for life." (emph. added); **TITLE 18 U.S.C. § 1503. Influencing or injuring officer or juror generally** [id., page 13 hereof], i.e., "(a) Whoever **corruptly...endeavors to influence or impede**...officer in or of any court of the United States, ...**or endeavors to influence, obstruct, or impede, the due administration of justice**, shall be punished as provided in subsection (b)." (emphasis added); **TITLE 18 U.S.C. § 1512. Tampering with a witness, victim, or an informant** [id., page 14 hereof], i.e., "(b) Whoever...**corruptly persuades** another person, **or attempts to do so, or engages in misleading conduct toward another** person, **with intent** to -- (1) **influence**, delay, **or prevent the testimony of any person** in an official proceeding; (2) **cause or induce any person to** -- (A) withhold testimony...from an official proceeding; shall be fined under this title or imprisoned not more than ten years, or both." (emph. added); **TITLE 42 U.S.C. § 1983. Civil action for deprivation of rights** [id., page 16 hereof], i.e., "**Every person** who, **under color of any statute**, ordinance, custom, or usage, **of any State** or Territory or District of Columbia, **subjects, or causes to**..." (continued, page 61 hereof)

[47] **TITLE 42 U.S.C. § 1983** (continued from page 60 hereof): "... **be subjected**, **any citizen of the United States** or other person within the jurisdiction thereof **to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws**, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress" (emph. added); **TITLE 42 U.S.C. § 1985. Conspiracy to interfere with civil rights** [id., pages 16 & 17 hereof], i.e., "(2) If **two or more persons in any State** or Territory or the District of Columbia **conspire** to...influence the verdict, of any grand or petit jury..., or **if two or more persons conspire** for the purpose of impeding, hindering, obstructing, or defeating, **in any manner, the due course of justice in any State or Territory, with the intent to deprive any citizen...equal protection of the laws**, or to injure him or his property for lawfully enforcing, or **attempting to enforce**, the right of any person, or class of persons, to the equal protection of the laws; (3) ...**in any case of conspiracy** set forth in this section, **if one or more persons** engaged therein **do, or cause to be done, any act in furtherance of the object of such conspiracy**, whereby another is injured in his person **or property, or deprived of having and exercising any right or privilege** of a citizen of the United States, the party so injured or deprived may have an action for the recovery of damages occasioned by such injury or deprivation, against one or more of the conspirators" (emphasis added); **Constitution of Kentucky**: **Ky Const § 1. Rights of life, liberty, worship, pursuit of safety and happiness, free speech, acquiring and protecting property, ...redress of grievances, bearing arms**: [supra, page 26 hereof], i.e., "**All men** are, by nature, free and equal, and **have certain inherent and inalienable rights**, among which may be reckoned: **First**: The right of enjoying and **defending their** lives and **liberties**; **Second**: The right of worshipping Almighty God **according to the dictates of their consciences**; **Third**: The right of seeking and pursuing their safety and happiness; **Fourth**: The right of **freely communicating their thoughts and opinions**; **Fifth**: The right of acquiring and **protecting property**; ..." (emphasis added); **Ky Const § 2. Absolute and arbitrary power denied**: [id., page 26 hereof], i.e., "**Absolute and arbitrary power over** the lives, liberty and property of **freemen exists nowehere in a republic, not even in the largest majority**." (emphasis added); **Ky Const § 3. Men are equal...** [id., page 26 hereof], i.e., "All men, ...are equal; and **no grant of exclusive...privileges shall be made to any man or set of men**..." (emphasis added); **Ky Const § 5. Right to religious freedom**: [id., page 26 hereof], i.e., "**No preference shall ever be given by law to any religious sect, society or denomination**; ...**and the civil rights, privileges or capacities of no person shall be** taken away, **or in anywise diminished or enlarged**, on account of his belief or disbelief of any religious tenet, dogma or teaching. **No human authority shall**, in any case whatever, **control or interfere with the rights of conscience**." (emphasis added); **Ky Const § 10. Security from search and seizure; conditions of issuance of warrant** [id., page 26 hereof], i.e., "The people shall be secure in their persons, houses, papers and possessions, from unreasonable search and seizures; and **no warrant shall issue to search any place, or seize any person or thing**, without describing them as nearly as may be, **nor without probable cause** supported by oath or affirmation."

(emphasis added); **Ky Const § 12**: [id., page 26 hereof], i.e., "No person, **for an indictable offense**, shall be proceeded against criminally by information..., or by leave of court for oppression or misdemeanor in office." (emphasis added); (continued, page 62 hereof)

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[47] (continued from page 61 hereof): **Ky Const § 17. Excessive bail or fine, or cruel punishment, prohibited** [id., page 27 hereof], i.e., "**Excessive bail shall not be required, nor...cruel punishment inflicted**." (emphasis added); **509.040 Kidnapping** [id., page 36 hereof], i.e., "(1) A person is guilty of kidnapping when he **unlawfully restrains another person** and when his intent is: (b) **To accomplish or to advance the commission of a felony**; (2) Kidnapping is a Class B felony when the victim is released in a safe place prior to trial, except as provided in this section." (emphasis added); **514.030 Theft by unlawful taking or disposition** [id., page 37 hereof], i.e., "(1) Except as otherwise provided in KRS 217.181 or 218A.1418, **a person is guilty of theft by unlawful taking or disposition when he unlawfully: (a) Takes or exercises control over moveable property of another with intent to deprive him thereof**; (2) Theft by unlawful taking or disposition is a Class A misdemeanor unless the **value of the property is three hundred dollars or more**, or unless the property is a firearm (regardless of the value of the firearm), in which case it is a **Class D Felony**." (emphasis added); **514.080 Theft by extortion** [id., page 37 hereof], i.e., "(1) A person is guilty of theft by extortion when he intentionally obtains the property of another **by threatening to**: (b) **Accuse anyone of a criminal offense**; or (c) **To expose a secret tending to subject any person to hatred, contempt, or ridicule, or to impair his credit or business repute**; ...(3) theft by extortion is a Class A misdemeanor unless the value of the **property obtained is three hundred dollars or more**, in which case it is a **Class D felony**." (emphasis added); **514.110 Receiving stolen property** [id., page 37 hereof], i.e., "(1) A person is guilty of receiving stolen property when he **receives, retains, or disposes of moveable property of another** knowing that it has been stolen, unless the property is received, retained, or disposed of with intent to restore it to the owner. (2) The possession by any person of any recently stolen property shall be ***prima facie*** evidence that such person knew that such property was stolen. (3) Receiving stolen property is a Class A misdemeanor unless the **value of the property is three hundred dollars or more**, or unless the property is a firearm (regardless of the value of the firearm), in which case it is a **Class D felony**." (emphasis added); **Kentucky Rules of Evidence**: **K.R.E. 404. CHARACTER EVIDENCE AND EVIDENCE OF OTHER CRIMES** [supra, page 40 hereof], i.e., "**(a) Character Evidence Generally**: Evidence of a persons character is **not admissible** for the purpose of proving action in conformity therewith on a particular occasion, **except**: (1) *Character of accused*: Evidence of a pertinent trait of character or of the general moral character **offered by the accused**...; (2) *Character of Victim Generally*: Evidence of a pertinent trait of character of the victim of the crime **offered by the accused**...; **(b) Other Crimes, Wrongs, or**

Acts. Evidence of other crimes, wrongs, or acts **is not admissible** to prove the character of a person in order to show action in conformity therewith. ...**(c) Notice Requirement**. In a criminal case, if the prosecution intends to introduce evidence pursuant to subdivision (b) of this rule as a part of its case in chief, it **shall give reasonable pretrial notice to the defendant** of its **intention** to offer such evidence. **Upon failure of the prosecution to give such notice the court may** exclude the evidence offered under subdivision (b) or for cause shown may excuse the failure to give such notice and **grant the defendant a continuance or such other remedy as necessary to avoid unfair prejudice caused by such failure**." (emphasis added); **K.R.E. 602. LACK OF PERSONAL KNOWLEGE** [id., page 41 hereof], i.e, "A witness may not testify to a matter..." (continued, page 63 hereof)

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35. On May 16, 1994, Bishop visited Dr. Adrian Fulmer, her family practitioner in Lexington. Dr. Fulmer's records, and later testimony at trial, revealed that he **saw no signs of injury about her head, neck, or upper body**, and **[Bishop's] "range of motion [in all extremities] appeared to be normal"**. [see TT #1, 05/20/96, 15:31:10, & 15:40:50, et seq.; and TT #2, 10/27/98, 10:54:50 et seq. (emphasis added)]

36. On May 18, 1994, Bishop visited Dr. Mark Einbecker, an Orthopedic Surgeon in Lexington. Dr. Einbecker's records, and his later testimony, revealed that he saw no signs of injuries about Bishop's head, neck, or upper body; "[Bishop's] range of motion in all extremites appeared to be normal"; and that he "couldn't tell if Bishop's symptoms were physical or emotional". Dr. Einbecker also noted and testified that Bishop suffered from "Degenerative Disk Disease", a pre-existing and long-standing "arthritic condition". [TT #2, 10/27/98, 16:27:16, et seq.] Dr. Einbecker also stated: "**Based on the X-rays taken, there's**...

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[47] **K.R.E. 602. LACK OF PERSONAL KNOWLEGE** (continued from page 62 hereof): "...unless evidence is introduced to support a finding that the witness has **personal knowlege** of the matter." (emphasis added); **K.R.E. 1101. APPLICABILITY OF RULES** [id., page 41 hereof], i.e., "**(a) Courts**. These rules apply to **all the courts of this Commonwealth in the actions, cases, and proceedings** and to the extent hereinafter set forth. ...**(c) Rules on Privileges**. The rules with respect to **privileges apply at all stages of all actions, cases, and**

proceedings." (emphasis added); hereinbefore paragraphs E-12 through E-14, E-16, E-21, E-22, E-24 through E-26, E-31, & E-32; hereinafter paragraphs E-38 thru E-41, E-43, E-44, E-46, E-50(f), E-56(a), E-56(b), E-56(e), E-61, E-62, E-65, E-66, E-70, E-72, E-73 thru E-79, E-81, E-82, et seq.; and TT#2, T. Layne, 10/27/98, 11:18:00, et seq. **Akers was further remanded to custody** pending the May 19, 1994, hearing/trial **and remained in custody until transported directly** to Lexington's [Kentucky] Bluegrass Airport en route to the Hazelden Foundation, in Minnesota. (see hereinafter paragraphs E-38, et seq.)

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no doubt in my mind that she had a pre-existing condition prior to this altercation" [TT#1, M. Einbecker, 05/20/96, 14:27:55]; and that "**Herniations do occur naturally**..." [id., 14:32:40]

37. As well, on May 18, 1994, Akers was arraigned before the same Fayette District Court Judge David Hayse who had issued the initial "Domestic Violence Order and Summons" in hereinabove paragraph E-32. The following transcript is a **verbatim account** of that arraignment/hearing:

Judge Hayse:	Number one. Gorden Akers. I guess that's one and two. Gorden -- James Gorden Akers?
Bailiff:	He's in custody, your honor.
Prosecutor:	Your Honor, I'd like to cut right to
Bailiff:	Mr. Akers.
	-- (inaudible)--
Judge Hayse:	Ms. Rabits your attorney?
Akers:	Beg pardon?
Judge Hayse:	Ms. Rabits your attorney?
Akers:	Yes.

Judge Hayse: Did she understand that you were going to be here today?

Akers: Uh, no Sir. I didn't know myself I was supposed to be here today. Uh, what's the--

Judge Hayse: Well, you're charged with terroristic threatening and assault in the 4th degree.

Akers: Uhhhhh --

Judge Hayse: Were you arraigned on these--last Thursday, maybe? Remember being in 1:00 or 12:30 court?

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Akers: Yes, Sir. Yes, Sir. But I thought this was was supposed to be heard again tomorrow.

Judge Hayse: You probably have some Domestic Violence matters that are being heard, as well. And those, while they may be out of the similar or same spousal situation, they are different charges.

Akers: Sir, I didn't terrorize anyone that I'm aware of.

Judge Hayse: Well, I -- I don't want to talk about the specifics for you -- at this stage. -- Go ahead, I'm sorry.

Prosecutor: If he wanted to plead today -- uh -- we would be willing to merge the terroristic threatening into the assault. One hundred and costs.

Judge Hayse: Well, are you on probation for anything at this stage?

Akers: No Sir. No Sir. -- (pause) -- **This all basically stemmed from one incident -- or one incident for two or three days.**

Judge Hayse: I really sorta think he needs to have his attorney here. This doesn't even show assault fourth. It shows emergency detention and temp -

Prosecutor: I've got it right here --

Judge Hayse: Oh, there is a separate one?

-- (pause) -

-- (inaudible) --

Judge Hayse: Did they escort you to Eastern State, sir?

Akers: Yes Sir.

Judge Hayse: And they turned around and released you back?

Akers: They brought me back over here, yes. I was pretty heavily intoxicated, Sir.

Judge Hayse: Well, I'm gonna do one of two things. I'll continue to give you a chance to contact your attorney. The County has indicated that the would recommend $100 and costs on one count of assault fourth. Is that correct?

Prosecutor: Yes, Your Honor.

Judge Hayse: Now, I'm not -- You have a right to talk to your attorney and you may prefer to do that.

Akers: Uh, I don't have a problem with that. That sounds -- that sounds fair to me.

Judge Hayse: You understand you'd be giving up your right to talk to an attorney if you plead guilty?

Akers: Yeah, that's fine. I, that's, that's very--

Judge Hayse: Do you understand you'd be giving up your right to a jury trial?

Akers: That's correct. The $100 -- uh -- and costs for that particular incident would be more than reasonable as far as I'm concerned.

Judge Hayse: Well, I agree with you, sir. I just

want to make sure you understand what you're doing.

Akers: I, I, I understand. I've had quite a bit of experience in court. Now -- not in criminal courts before, okay?

Judge Hayse: **Alright, so how do you plead to fourth degree assault?**

Akers: **I plead guilty to that, Sir.**

Judge Hayse: **Merge the terroristic threatening; $100 and costs on the assault fourth.** I'll set it for fine payment August 17th. It must be paid, in full, before August 17th. Now, are you being held on the domestic violence matter?

Akers: No, Sir. I think I'm being held on contempt of court --uh-- is what I'm being held for.

Judge Hayse: Alright. Well, this releases you on these two charges, but it's probably not going to release you --

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Akers: **So this releases everthing except for the contempt of court, is that right?**

--(inaudible)--

Judge Hayes:	**Well it sounds like it, but I'm not sure.**
Akers:	**I think it does.**
Judge Hayse:	And you're going back to court tomorrow on that.
Akers:	Tomorrow -- as I understand it, and that should be wrapped up tomorrow, as well, Sir.
Judge Hayse:	**Well, I hope that you understand the seriousness of what you've been going through and do not have any further contact with the other party.**
Akers:	I, I, certainly understand that now, Sir.
Judge Hayse:	Okay, Good luck.
Akers:	Thank you.

[**Note**: A Certified Transcript of the hereinabove hearing/trial has not yet been prepared. However, Akers was provided a copy of the audio-taped transcript by Fayette District Court and the same is, hereby, incorporated herein by reference as Exhibit "O" hereto]

38. On May 19, 1994, a hearing/trial was conducted before Fayette (Kentucky) District Court Judge Thomas Clark, charging Akers with "**Contempt of Court**" (pursuant to that outlined in hereinabove paragraphs E-32 & E-33), and "Domestic Violence" (pursuant to that which is outlined in the hereinabove paragraph E-31). Akers was sentenced to six months (6) in jail for the "Contempt of Court" charge (to be suspended if Akers

completed an alcohol treatment program at Hazelden, in Minnesota), and a...

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"Domestic Violence Order" was entered imposing sanctions upon Akers to have "no contact with [Bishop]:" ..."**by remaining at all times at least 1,000' away from [her]**"[48] for a period of one year. Hereunto relevant portions of the "Certified Transcript" of that hearing/trial [see Exhibit "P" hereto] include, but are not limited to, the following:

Akers' Attorney: Your Honor, the reason I'd asked for the break was, um, I thought there might have been charges brought that I was not aware of that would create a double jeopardy issue, but the fact -

-- (inaudible) --

citations issued by the police officers whenever they went to his house that night, so that would not create a double jeopardy issue in this case.

Judge Clark: I think I previously --

Akers' Attorney: Swore both witnesses --

Judge Clark: I think I swore both witnesses in.[49]

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[48] See: Vagueness Doctrine [supra, page 31 hereof], i.e, "...**a law, (e.g., criminal statute) which does not fairly inform an ordinary person of what is commanded or prohibited is unconstitutional as violative of due process**."; and "**Void for vagueness doctrine** [id.], i.e.,-"A law which is so obscure in its

promulgation that a reasonable person could not determine from a reading what the law purports to command or prohibit is **violative of due process**." See also: **K.R.S. 505.010 Entrapment** [supra, page 32 hereof], i.e., "**A person is not guilty** of an offense arising out of a proscribed conduct **when**: (a) **He was induced or encouraged** to engage in that conduct by a public servant or **by a person acting in cooperation with a public servant seeking to obtain evidence against him for the purpose of a criminal prosecution**; and (b) At the time of the inducement or encouragement, **he was not otherwise disposed to engage in such conduct**. (emphasis added)

[49] See: **K.R.S. 505.040** [supra, page 33 hereof] and corresponding footnote [34]; and **K.R.S. 505.030 (4)** [supra, page 34 hereof], esp., with respect to: "The former prosecution was improperly terminated **after the first witness was sworn** but before findings were rendered by the trier of fact." (emphasis added)

Akers' Attorney: Yes. [page 1, lines 3 through 13]

Judge Clark: Mrs. Akers, you have filed a domestic violence petition with this court alleging that **on, or about, May the 4th here in Fayette County certain acts of domestic violence or abuse occurred**. Are the allegations in that petition true and correct? [page 2, lines 11 through 18] (emphasis added)

Mrs. [Bishop]: Your Honor, may I say something? [page 12, line 17]

Judge Clark: Yes, ma'am. [page 12, line 19]

Mrs. [Bishop]: **On May the 4th he pulled me out of the bed by the hair of my head and drug me into the hallway, he hit me in the mouth with his fist a couple of times**[50]

and he kicked me, and there's a hole in the hallway wall and <u>I'm not sure how it got there</u>. [page 12, lines 21 thru 23; page 13, lines 1 through 4,] (emphasis added)

<u>Judge Clark</u>: For purposes of the record, as far as the initial domestic violence petition, **I'm going to make a <u>finding of fact</u> that there is evidence to believe that domestic violence or abuse has occurred.**[51] At this point, Mr. Akers, ...

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[50] It is **<u>absolutely scurrilous</u>** for Bishop to allege that Akers, who was 6'2" tall, 238#, and in excellent health at the time, could have committed these acts and left no residual signs thereof other than a "slightly swollen lip" (see hereinabove paragraphs E-31(ee), E-31(ss) thru E-31(vv), E-35, & E-36; and hereinafter paragraphs E-81, E-86, E-87, E-96, E-110, E-111, & E-119.

[51] <u>See</u>: **K.R.S. 403.720(1)**" [supra, page 29 hereof], i.e., "'**Domestic violence**' and abuse **means physical injury, serious physical injury, ...or assault between family members**...; & ...(2) '**Family member**' **means a spouse**..." (emphasis added); **K.R.S. 403.7505(2)(a)** [supra, page 30 hereof], i.e., "'**Domestic Violence**' includes...physical...abuse, and **is considered <u>criminal conduct</u>**" (emphasis added); **K.R.S. 500.080** [supra, page 32 hereof], i.e., "As used in the Kentucky Penal Code, ...(13) "'**Physical injury**' means substantial pain or any impairment of physical condition; ...(15) '**Serious physical injury**' means physical injury which **creates a substantial risk of death**, or which **causes** serious and...prolonged impairment of the function of any bodily organ." (emphasis added)

I'm going to enter a restraining order that at this point restrains you from committing -- from any further contact with Ms. [Bishop], also to remain at least a thousand

feet from her at all times. ...Additionally, a consideration or condition of that order will be as well that when the space becomes available at Hazelden in Minnesota that you will present yourself to that facility and complete what I believe is what? A thirty-day program? [page 14, line 17 thru page page 15, line 21] (emphasis added)

Judge Clark: **Additionally, on the issue of contempt, Mr. Akers, I'm going tofind that you are in contempt**[52] of the Emergency Protective Order that was in fact entered and served and that in fact you were served with. **I'm finding you in contempt**[53], **I'm going to impose a sentence of six months on that matter**. -- the balance of that time will be suspended conditioned upon you completing that [Hazelden] program. [page 22, lines 1 through 24][52] (emphasis added)

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[52] See: **K.R.S. 403.760** [supra, page 30 hereof], i.e., "(1) Violation of the terms or conditions of an order under the provisions of KRS 403.740 or 403. 750, whether an emergency protective order, or an order following hearing, **after service of the order on the respondent**, or notice to the respondent, **shall constitute contempt of court**; (5) **Civil proceedings and criminal proceedings are mutually-exclusive. Once either has been initiated, the other may not be undertaken regardless of the outcome of the original proceeding**. (emphasis added); **Menna v. New York**, 423 U.S. 61, 96 S.Ct. 241, 46 L.Ed (2d) 195 (1975), i.e., "[w]here 30-day sentence was imposed after adjudication for contempt of court, ...contempt adjudication was criminal conviction." [see also: **Menna v. New York**, supra, footnote [4], page 10 hereof]; and TT#3, L. Red Corn, 05/21/96, 09:53:25.

[53] **Akers was again remanded to custody and then remained in custody until transported directly from the Fayette (Kentucky) County Detention Center to Lexington's Bluegrass Airport en route to Hazelden Foundation**, in Minnesota, on May 30, 1994 (see footnote [44] above, i.e, "[the] **contemnor** holds the keys to the jail in his pocket and **is entitled to immediate release upon his willingness to abide by the court's orders**.") A "Domestic Violence Order" was then entered which formalized the Court's rulings and **now alleged that Akers was "believed to be armed/dangerous"**. [see Exhibit "Q" hereto]

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39. On May 26, 1994, Bishop received X-rays of her neck at Central Baptist Hospital in Lexington. Dr. Scott Stevens' "Report" [Exhibit "R" hereto] notes as follows:

> "1. There are **abnormalities at multiple levels in the cervical spine**. (emphasis added)
>
> 2. There is a moderate size central and to the right focal disc herniation at C5-C6.
>
> 3. There is a moderate size central and to the right focal disc herniation at C6-C7.
>
> 4. There is a small focal disc bulge or small focal herniation to the right at C3-C4."

[**Note**: It is crucial to note, at this point, that Bishop's subsequent X-rays on 01/24/97 resulted in notations by Dr. Dennis R. Whaley, of the same Central Baptist Radiology Department, as follows:

> "IMPRESSION: There is fusion of the bodies of C5 and C6 with **degenerative change at other levels in the cervical spine**. Only minimal neural foraminal encroachment is evident on the oblique views." [See Exhibit "S"... (emph. added)]

40. Capitalizing on the "Nichole Brown Simpson/Ronald Goldman Tragedy" of June 12, 1994, and Kentucky's newly-enacted "Domestic Violence" laws in the furtherance of those schemes as outlined in hereinabove paragraphs E-12 through E-14, E-16, E-24, E-25 through E-29, & E-31 through E-38, Bishop filed a "Petition for Dissolutionment of Marriage" in June of 1994, **while Akers was at the Hazelden facility**.

41. Having continued to feign injuries as the purported result of those events in hereinabove paragraph E-31, on June 16, 1994, Bishop visited Dr. John J. Vaughan (an Orthopedic..,

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Surgeon in Lexington, Kentucky, and hereinafter Vaughn") with the intent to obtain/extract a diagnosis to serve her objectives outlined in hereinabove paragraphs E-12 through E-14, E-16, E-24, E-25 through E-29, & E-31 through E-40. Bishop further concealed from Vaughn the fact that she previously experienced similar, if not identical, symptoms for in excess of five years prior thereto. [TT#1, J. Vaughn, 05/20/96, 13:32:42; Exhibits "B" through "K" hereto; and "**'Fraud' defined**" (footnote [7], page 13 hereof)]

42. Notwithstanding the obvious causative factors which Vaughn **should have identified** as the source of Bishop's alleged symptoms, i.e., as the result of an **inherited, pre-existing, and long-standing "arthritic condition"** (as detected by Drs. Fulmer and Einbecker), Dr. Vaughn, who being less than two years into establishment of his medical practice, capitalized on Bishop's scheme and the then "hot political issue" of "Domestic Violence" by seizing the opportunity to perform a major surgery, **knowing that the insurance benefits would be unchallenged** in absence of disclosure of a "pre-existing condition" as the "causation" of Bishop's condition and hereinafter-noted **elective surgery**.[54]

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[54] Vaughn subsequently **admitted, under oath, under cross-examination**, that Bishop's medical records and his examination during surgery, revealed that Bishop was suffering from **both "degenerative disc disease" and "arthritis"**

"before her 'injury'" **and that neither could have been caused by Akers** on, or about, May 5, 1994. Vaughn further admitted that those same "pre-existing conditions" of Bishop could have, **in themselves, been the causation of her herniated discs**. [see TT#1, J. Vaughn, 05/20/96, 14:14:40, et seq.; TT#1, J. Vaughn, 10/26/98, 16:27:40, 16:37:49, 16:47:30, 16:49:00, 16:50:25, 16:51:15, 16:51:40, & 16:53:00; and hereinafter paragraphs E-48, E-49, E-56(e), E-86, E-87, E-96, E-110, E-111, and E-121 thru E-127.

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43. On June 29, 1994, Akers was discharged from Hazelden, having completed the program ordered by Judge Clark as outlined in hereinabove paragraph E-38 [see "Discharge Summary", Exhibit "T" hereto] and, upon returning to the Akers' marital residence on that same date, Akers discovered that: (a) Bishop, Fleming, Layne, and an unknown number of CBT Does 1 through 30 and/or SCC Does 1 through 40 had already moved Bishop out of that home and removed all property Bishop wanted[55]; (b) including **hundreds of photographs, greeting cards, and mementos, etc.,**[56] which would have proven that Bishop's later allegations of long-term and/or ongoing "domestic violence and abuse" were fraudulent; **and (c)**...

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[55] See: TT#2, C. Bishop, 10/27/98, 09:49:45; TT#2, D. Fleming, 10/27/98, 13:28:50; and TT#2, J. Preston, 10/27/98, 14:25:25. See also: **ARTICLE IV-SECTION 2, U.S. Const.** [supra, page 6 hereof], i.e., "[1.] The citizens of each state shall be entitled to **all privileges and immunities** of citizens in the several states" (emphasis added); **U.S. Const. Amend. 4** [supra, page 7 hereof], i.e., "The right of the people to be secure in their **persons**, houses, papers, and effects, against unreasonable searches and **seizures**..." (emphasis added); **U.S. Const. Amend. 14** [supra, page 10 hereof], i.e., "**All persons** born or naturalized in the United States, and subject to the jurisdiction thereof, are **citizens of the United States** and of the **State wherein they reside**. **No State** shall make or enforce **any law** which shall abridge the privileges or immunities of citizens of the United States; **nor shall any state deprive any person of life, liberty, or property, without due process of law**; nor deny any **person within its**..." (continued, page 74 hereof)

[56] See TT#2, C. Bishop, 10/27/98, 09:49:45; **TITLE 18 U.S.C. § 1512** [supra, page 14 hereof], i.e., "(b) **Whoever** knowingly...or **corruptly persuades another person, or attempts to do so**, or engages in misleading conduct toward another

person, **with intent to**-- (2) **cause or induce any person to**-- (B) **alter**, destroy, **mutilate**, or conceal **an object with intent to impair the object's** integrity or **availability in an official proceeding**; shall be fined under this title or imprisoned not more than ten years, or both." (emphasis added); and **K.R.S. 524.100. Tampering with physical evidence** [supra, page 38 hereof], i.e., "(1) **A person is guilty of tampering with physical evidence when, believing that an official proceeding is pending or may be instituted, he**: (a) Destroys, mutilates, conceals, **removes**, or alters **physical evidence** which he believes is about to be produced or used in the official proceeding **with intent to impair its** verity or **availability in the official proceeding**; (2) Tampering with physical evidence is a Class D felony." (emphasis added)

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[55] **U.S. Const. Amend. 14** (continued from page 73 hereof): "... **jurisdiction equal protection of the laws**" (emphasis added); **TITLE 18 U.S.C. § 2. Principals** [supra, page 11 hereof], i.e., "(a) Whoever **commits** an offense against the United States or **aids, abets, counsels**, commands, **induces, or procures** its commission, **is punishable as a principal**. (b) Whoever willfully causes an act to be done which if directly performed by him or another would be an offense against the United States, is punishable as a principal." (emphasis added); **TITLE 18 U.S.C. § 3. Accessory after the fact** [id.], i.e., "Whoever, knowing that an offense against the United States has been committed, **receives, relieves**, comforts **or assists** the offender in order to hinder or prevent his apprehension, trial or punishment, **is an accessory after the fact**." (emphasis added); **TITLE 18 U.S.C. § 4. Misprison of felony** [id.], i.e, "Whoever, **having knowledge** of the actual commission of a felony cognizable by a court of the United States, **conceals and does not as soon as possible make known the same** to some judge or other person in civil or military authority under the United States, shall be fined under this title or imprisoned not more **than** three years or both." (emphasis added); **TITLE 42 U.S.C. § 1983. Civil action for deprivation of rights** [supra, page 16 hereof], i.e., "**Every person** who, **under color of any statute**, ordinance, custom, or usage, **of any State** or Territory or the District of Columbia, **subjects, or causes to be subjected, any citizen of the United States** or other person within the jurisdiction thereof **to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws**, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress." (emphasis added); **TITLE 42 U.S.C. § 1985. Conspiracy to interfere with civil rights** [id. pages 16 & 17 hereof], i.e., "(2) If **two or more persons in any State** or Territory or the District of Columbia **conspire** to...influence the verdict, presentment, or indictment of any grand or petit jury..., or **if two or more persons conspire** for the purpose of impeding, hindering, obstructing, or defeating, **in any manner, the due course of justice in any State or Territory, with the intent to deprive any citizen...equal protection of the laws**, or to injure him or his property for lawfully enforcing, or **attempting to enforce**, the right of any person, or class of persons, to the

equal protection of the laws; (3) ...**in any case of conspiracy** set forth in this section, **if one or more persons** engaged therein **do, or cause to be done, any act in furtherance of the object of such conspiracy**, whereby another is injured in his person **or property, or deprived of having and exercising any right or privilege** of a citizen of the United States, the party so injured or deprived may have an action for the recovery of damages occasioned by such injury or deprivation, against one or more of the conspirators" (emphasis added); **K.R.S. 514.030 Theft by unlawful taking or disposition** [supra, page 37 hereof], i.e., "(1) Except as otherwise provided in KRS 217.181 or 218A.1418, **a person is guilty of theft by unlawful taking or disposition when he unlawfully: (a) Takes or exercises control over moveable property of another with intent to deprive him thereof**; (2) Theft by unlawful taking or disposition is a Class A misdemeanor unless the **value of the property is three hundred dollars or more**, or unless the property is a firearm (regardless of the value of the firearm), in which case it is a **Class D Felony**." (emphasis added); and **K.R.S. 514.110 Receiving stolen property** [id.], i.e., "(1) A person is guilty of receiving stolen property when he **receives, retains, or disposes of moveable property of another** knowing that..." (continued, Page 75 hereof)

$19,300.00 cash, which was **clearly identified/marked** as property of "Coleman/Akers & Akers, Inc." (C/AA), was properly secured in a **locked** "Night Depository" bank bag, and had remained **locked** in Akers' briefcase.[56]

44. (a) On July 2, 1994, Bishop (wearing a "soft collar" neck brace) and Layne appeared together on a regional telecast of the previous Sunday's morning worship service at Southland Christian Church (SCC); (b) portrayed Bishop as the victim of an "abusive twenty-five year marriage"; and (c) appealed to the audience and congregation to provide aid and comfort to her.[57]

45. On July 14, 1994, Akers once again "swallowed his pride" and, in effort to salvage his marriage, family, and home, telephoned Bishop at her office at CBT and made the following **single statement**: "This is Gorden, and I still love you."

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[55] **K.R.S. 514.030** (continued from page 74 hereof): "... it has been stolen, unless the property is received, retained, or disposed of with intent to restore it to the owner. (2) The possession by any person of any recently stolen property shall be ***prima facie*** evidence that such person knew that such property was stolen. (3) Receiving stolen property is a Class A misdemeanor unless the **value of the**

property is three hundred dollars or more, or unless the property is a firearm (regardless of the value of the firearm), in which case it is a **Class D felony**." (emphasis added)

[56] Note: Only Akers and Bishop knew the combination to Akers' briefcase and the same brief case, **and locked bank bag**, remained **completely intact** upon Akers' return from Hazelden Foundation.]

[57] This service was actually filmed by Donald Shannon (herein Shannon) on 06/26/94. See also: **Title 18 U.S.C. §§ 2, 3, & 4** [supra, page 11 hereof]; **Title 18 U.S.C. § 875** [supra, page 12 hereof]; **Title 18 U.S.C. §§ 1961, et seq.** [supra, pages 14 & 15 hereof]; **Title 42 U.S.C. § 1985(3)** [supra, page 16 hereof]; **K.R.S. 514.080** [supra, page 37 hereof]; hereinabove paragraphs E-8 through E-14, E-16 through E-29, E-31 through E-36, E-38 through E-43; and hereinafter E-47, E-50, E-51, E-56 through E-58, E-81, E-82 through E-87, E-89, E-90, E-95, E-98, E-107, E-109 through E-111, E-119 through E-121, and E-123 through E-125.

Bishop reacted by yelling: "**Well, I don't love you! Just sign the papers and get this over with!**" [see TT#1, L. Red Corn, 05/20/96, 11:01:30]. About three hours later, Akers was again arrested for "Contempt of Court" and sentenced to ten days in jail by the hereinabove Judge David Hayse.

46. Then conceding that any reconciliation with Bishop had become virtually impossible, **Akers made no further attempts to contact her; was extremely careful not to go within miles of her**; began to date other ladies; proceeded to negotiate a "settlement" with Bishop's attorney, Jerry L. Kelly (hereinafter "Kelly"); and make plans to move back to Nashville, Tennessee.[58]

47. At some time prior to the month of August, 1994, and in overt effort to entrap Akers into violating the "1,000'" restriction imposed by the hereinabove "Domestic Violence Order" (see paragraph E-38 hereinabove), Bishop obtained a Post Office Box at the Lansdowne [Lexington, Kentucky 40524] Branch of the United States Post Office being fully-cognizant that Akers had maintained a box at that same location since 1988 on behalf of...

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[58] See: **Article I-Section 9, U. S. Constitution** [supra, page 5 hereof], i.e., "**The migration** or importation **of...persons** as any of the states...shall think proper to admit, **shall not be prohibited**..." (emphasis added); **ARTICLE IV- SECTION 2** [id., page 6 hereof], i.e., "[1.] The citizens of each state shall be entitled to **all privileges and immunities** of citizens in the several states"; **U. S. Const. Amend. 14** [supra, page 8 hereof], i.e., "**All persons born** or naturalized **in the United States**, ...are **citizens of the United States** and of the **State wherein they reside**. **No State** shall make or enforce **any law** which shall abridge the privileges or immunities of citizens of the United States; nor shall **any state** deprive any person of life, **liberty**, or property, without **due process of law**" (emphasis added); and **Ky Const § 24** [supra, page 15 hereof], i.e., "**Emigration** from the State **shall not be prohibited**"; (emphasis added).

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hereinabove C/AA, and that Akers had diligently picked up mail at that location twice daily since 1988.[59]

48. On August 30, 1994, Bishop underwent surgery, under the advice and orchestration of Dr. Vaughn, and Bishop sustained a permanent twenty to twenty-five percent reduction in mobility of her neck as the proximate result thereof.[60]

49. On, or about the first week of September, 1994, Dr. Vaughn fraudulently invoiced Bishop's insurance underwriter (believed to be Cordage of Lexington) for his services outlined in hereinabove paragraphs E-38, E-39, & E-44 and, at some point thereafter, received compensation for services as invoiced.[61]

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[59] This was **obviously** a covert attempt, conspired by Bishop, Fleming, Layne, et al, to have Akers further imprisoned for six (6) to twelve (12) months in Fayette County [Kentucky] Detention Center, pursuant to provisions of **K.R.S. 403.740** [supra, page 29 hereof], with all previous attempts of those said conspirators to have Akers evicted from 3544 Boston Road, Lexington [Fayette County], Kentucky, having failed. **See also**: herein paragraphs E-12, E-14(d), E-16, E-24, E-33 thru E-44; **K.R.S. 505.010** [supra, page 32 hereof]; and TT#1, B. Taylor/L. Red Corn/R. Overstreet, 10/26/98, 13:46:40, et seq.

[60] Regardless of allegations as to "causation" (see hereinabove paragraphs E-2, E-8, E-28, E-35, E-36, E-41, & E-42), there are seven vertebrae (C1 thru C7) in the cervical area of the human spinal column and five corresponding "discs"

between each. The discs between C5-C6 were removed and those two vertebrae were "fused". Thus, 2 out of 7 vertebrae were fused (i.e., 2/7 or 28.57%) and 1 out of five discs were removed and "frozen" (i.e., 1/5 or 20%) and, therefore, a permanent 20% to 28.57% impairment of mobility in Bishop's neck **resulted from the surgery**. **See also**: TT#1, J. Vaughn, 10/26/98, 16:27:40, 16:31:40, 16:32:10, 16:34:30, 16:36:00, 16:37:49, 16:43:00, 16:47:30, 16:49:00, 16:50:25, 16:51:15, 16:51:40, 16:53:00; TT #2, A. Fulmer, 10/27/98, 10:55:00, 10:55:55, 11:00:20; and TT#2, M. Einbecker, 10/27/98, 16:24:25, 16:26:40, 16:27:25, & 16:33:45.

[61] See: **TITLE 18 U.S.C. § 2** [supra, page 11 hereof], i.e., "(a) Whoever **commits** an offense against the United States or **aids, abets, counsels**, commands, **induces, or procures** its commission, **is punishishable as a principal**. (b) Whoever willfully causes an act to be done which if directly performed by him or another would be an offense against the United States, is punishable as a principal." (emphasis added); (continued, page 78 hereof)

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[61] (continued from page 77 hereof): **TITLE 18 U.S.C. § 1341** [supra, page 13 hereof], i.e., "Whoever, **having devised or intending to devise** any scheme or artifice to defraud, **or for obtaining money or property by means of false or fraudulent pretenses**, ...**or attempting so to do**, places in any post office or authorized depository for mail matter, **any matter or thing whatever**, to be sent or delivered by the Postal Service, or deposits or causes to be deposited any matter or thing whatever to be **sent or delivered by any private** or commercial interstate carrier, or takes or receives therefrom, any such matter or thing, **or knowingly causes to be delivered** by such carrier according to the direction thereon, or at the place at which it is directed to be delivered to the person to whom it is addressed, **any such matter or thing**, shall be fined under this title or imprisoned not more than five years, or both." (emphasis added); **TITLE 18 U.S.C. § 1961** [supra, page 14 hereof]: "(1) 'racketeering activity' means...; (B) any act which is indictable under any of the following provisions of title 18, United States Code: ...section 1341 (relating to mail fraud), section 1343 (relating to wire fraud), ...section 1503 (relating to obstruction of justice); ...section 1512 (relating to tampering with a witness, victim, or an informant); (2) 'State' means **any State** of the United States, **any territory** or possession of the United States, any political subdivision, or any department, agency, or instrumentality thereof; (3) 'person' includes any individual, or entity capable of holding a legal or beneficial interest in any property; (4) "enterprise" includes any individual, partnership, corporation, association, or other legal entity, and **any union or group of individuals associated in fact** although not a legal entity; (5) 'pattern of racketeering activity' **requires at least two acts** of racketeering activity, one of which occurred after the effective date of this chapter and at least one of which occurred within ten years after the commission of a prior act of

'racketeering activity'" (emphasis added); **TITLE 18 U.S.C. § 1962** [supra, page 14 hereof], i.e., "(a) It shall be unlawful for any person who has received any income derived, directly or indirectly, from a pattern of racketeering activity...in which such person has participated as a principal within the meaning of section 2, title 18, United States Code, **to use or invest, directly or indirectly, any part of such income**, in aquisition of any interest in, **or the activities of which affect**, interstate commerce; (d) It shall be unlawful for any person **to conspire** to violate any of the provisions of subsection (a), (b), or (c) of this section" (emph. added); **TITLE 42 U.S.C. § 1985** [supra, pages 16 & 17 hereof], i.e., "(2) If **two or more persons in any State** or Territory or the District of Columbia **conspire** to...influence the verdict, presentment, or indictment of any grand or petit jury..., or **if two or more persons conspire** for the purpose of impeding, hindering, obstructing, or defeating, **in any manner, the due course of justice in any State** or Territory, with the intent to deprive any citizen ...equal protection of the laws, or to injure him or his property for lawfully enforcing, or **attempting to enforce**, the right of any person...to the equal protection of the laws; (3) ...**in any case of conspiracy** set forth in this section, **if one or more persons** engaged therein **do, or cause to be done, any act in furtherance of the object of such conspiracy**, whereby another is injured in his person **or property, or deprived of having and exercising any right or privilege** of a citizen of the United States, the party so injured or deprived may have an action for the recovery of damages occasioned by such injury or deprivation, against one or more of the conspirators" (emphasis added)

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50. (a) Having reached an agreement with Bishop by and through Kelly, on September 23, 1994, Akers sold the marital home at 3:30 p.m.; (b) met Kelly at Akers' bank to execute/ implement that agreement, which; (c) included waivers of any and all further claims or damages on behalf of Bishop [see page 4, Article 6, Exhibit "U" hereto]; (d) questioned Kelly about the authenticity of Bishop's signature thereon insofar as such appeared to be a forgery **as notarized by Kelly**; (e) received assurances of Kelly as to Bishop's signature's authenticity; and, upon Kelly's reassurances that Bishop's signature was authentic and that **she was <u>still considering</u> filing "criminal charges" against Akers**; (f) Akers presented a "Cashier's Check" to Kelly for the same amount agreed-upon by all parties[62]; and (g) advised Kelly that Akers was "moving back to Nashville and [had] to be there Monday".

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[62] See: **TITLE 18 U.S.C. § 2** [supra, page 11 hereof], i.e., "(a) Whoever **commits** an offense against the United States or **aids, abets, counsels**, commands, **induces, or procures** its commission, **is punishishable as a principal**. (b) Whoever willfully causes an act to be done which if directly performed by him or another would be an offense against the United States, is punishable as a principal." (emphasis added); **TITLE 18 U.S.C. § 1341** [supra, page 13 hereof], i.e., "Whoever, **having devised or intending to devise** any scheme or artifice to defraud, **or for obtaining money or property by means of false or fraudulent pretenses**, ...**or knowingly causes to be delivered** by such carrier according to the direction thereon, or at the place at which it is directed to be delivered to the person to whom it is addressed, **any such matter or thing**, shall be fined under this title or imprisoned not more than five years, or both." (emphasis added); **K.R.S. 514.080** [supra, page 37 hereof], i.e., "(1) A person is guilty of theft by extortion when he intentionally obtains the property of another **by threatening to**: (b) **Accuse anyone of a criminal offense**; or (c) **To expose a secret tending to subject any person to hatred, contempt, or ridicule, or to impair his credit or business repute**; **or** (d) **Use wrongfully his position as a public officer** or servant or employee by performing some act within or related to his official duty, **either express or implied, in a manner affecting some**..." (continued, page 80 hereof)

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[62] **K.R.S. 514.080** (continued from page 79 hereof): "...**person adversely**; (3) Theft by extortion is a Class A misdemeanor unless the value of the **property obtained is three hundred dollars or more**, in which case it is a **Class D felony**" (emphasis added); **K.R.S. 516.030** [supra, page 37 hereof], i.e., "(1) A person is guilty of forgery in the second degree when, **with intent to defraud, deceive**, or injure another, **he falsely** makes, **completes, or alters a written instrument** which is or purports to be or **which is calculated to become or to represent when completed**: (a) a...**contract, assignment**, ...or **other instrument which does or may evidence**, create, transfer, terminate **or otherwise affect a legal right**, interest, obligation, or status; **or (b) A public record or an instrument filed** or required or authorized by law to be filed in or **with a public office or public employee**; (2) Forgery in the second degree is a Class D felony" (emphasis added); **TITLE 18 U.S.C. § 1961** [supra, page 14 hereof], i.e., "(1) 'racketeering activity' means (A) **any act or threat** involving... extortion, ...or **which is chargeable under state law and punishable by imprisonment for more than one year**; (B) any act which is indictable under any of the following provisions of title 18, United States Code: ...section 1512 (relating to tampering with a witness, victim, or an informant); (2) 'State' means **any State** of the United States...**any territory** or possession of the United States, any political subdivision, or any department, agency, or instrumentality thereof; (3) 'person' includes any individual, or entity capable of holding a legal or beneficial interest in any property; (4) "enterprise" includes any individual, partnership, corporation, association, or other legal entity, and **any union or group of**

individuals associated in fact although not a legal entity; (5) 'pattern of racketeering activity' **requires at least two acts** of racketeering activity, one of which occurred after the effective date of this chapter and at least one of which occurred within ten years after the commission of a prior act of 'racketeering activity'" (emphasis added); **TITLE 18 U.S.C. § 1962** [supra, page 14 hereof]: "(a) It shall be unlawful for any person who has received any income derived, directly or indirectly, from a pattern of racketeering activity...in which such person has participated as a principal within the meaning of section 2, title 18, United States Code, **to use or invest, directly or indirectly, any part of such income**, in acquisition of any interest in, **or the activities of which affect**, interstate commerce; (d) It shall be unlawful for any person **to conspire** to violate any of the provisions of subsection (a), (b), or (c) of this section" (emphasis added); **TITLE 42 U.S.C. § 1985** [supra, pages 16 & 17 hereof]: "(2) If **two or more persons in any State** or Territory or the District of Columbia **conspire** to...influence the verdict, presentment, or indictment of any grand or petit jury ..., or **if two or more persons conspire** for the purpose of impeding, hindering, obstructing, or defeating, **in any manner, the due course of justice in any State** or Territory, with the intent to deprive any citizen...equal protection of the laws, or to injure him or his property for lawfully enforcing, or **attempting to enforce**, the right of any person...to the equal protection of the laws; (3)...**in any case of conspiracy** set forth in this section, **if one or more persons** engaged therein **do, or cause to be done, any act in furtherance of the object of such conspiracy**, whereby another is injured in his person **or property, or deprived of having and exercising any right or privilege** of a citizen of the United States, the party so injured or deprived may have an action for the recovery of damages occasioned by such injury or deprivation, against one or more of the conspirators." (emphasis added)

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51. Understandably (in view of those facts in hereinabove paragraphs E-31 through E-34, E-37, E-38, E-45, E-46, & E-50), and believing that **all matters with respect to Bishop had been fully-adjudicated and/or resolved**; there being no outstanding/remaining criminal charges against Akers [see "P.S.I. Report", Page 5, Exhibit "V" hereto]; and, as was his fundamental right pursuant to **Article I-Section 9**, the **United States Constitution, as well as § 24** of the **Constitution of Kentucky**, Akers then "migrated" from Lexington, Kentucky, with the remainder of his property (with the exception of his dog and truck) to Nashville, Tennessee, to "start a new life".[63]

52. On October 4, 1994, Akers returned the Akers' son, Alan, to Lexington after Alan had brought Akers' corporate

truck...

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[63] See also: **ARTICLE I-SECTION 9, U. S. Constitution** [supra, page 5 hereof]: "The **migration** or importation of...persons as any of the states...shall think proper to admit, **shall not be prohibited**...; "No bill of attainer or ***ex post facto* law** shall be passed." (emphasis added); **ARTICLE IV-SECTION 2** [id., page 6 hereof], i.e., "[1.] The citizens of each state shall be entitled to **all privileges and immunities** of citizens in the several states" (emphasis added); **FOURTEENTH AMENDMENT** [id., pages 10 & 11 hereof]: "**All persons** born or naturalized in the United States, and subject to the jurisdiction thereof, are **citizens of the United States** and of the **State wherein they reside**. **No State** shall make or enforce **any law** which shall abridge the privileges or immunities of citizens of the United States"; **Ky Const § 1** [supra, page 26 hereof]: **Rights of life, liberty, worship, pursuit of safety and happiness, free speech, acquiring and protecting property, ...redress of grievances, bearing arms**: "**All men** are, by nature, free and equal, and **have certain inherent and inalienable rights**, among which may be reckoned: **First**: The right of enjoying and **defending their** lives and **liberties**; **Third**: The right of seeking and pursuing their safety and happiness; **Const § 19 (1)** [supra, page 28 hereof], i.e., "No **ex post facto** law, ...shall be enacted" (emphasis added); **Ky Const § 24** [id.], i.e., "**Emigration** from the State **shall not be prohibited**" (emphasis added); **Ky Const § 26** [id.], i.e., "To guard against transgression of the high powers we have delegated, We Declare that **every thing in this bill of rights is excepted out of the general powers of government and shall forever remain inviolate; and all laws contrary thereto or contrary to this Constitution, shall be void**." (emphasis added)

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to Akers in Nashville, but **did not violate any of the terms or conditions of the foregoing "Domestic Violence Order" and no such violations have been alleged**.

53. On October 11, 1994, a "Decree of Dissolutionment" was entered, in Fayette (Kentucky) Circuit Court, dissolving the marriage of Akers and Bishop [see Exhibit "W" hereto]. As an integral part thereof, the hereinabove "Property Settlement Agreement" was incorporated, recorded, and filed therewith.[64]

54. (a) On October 14, 1994, Akers once again returned to Lexington, Kentucky, to re-license his corporate vehicles. (b) As on October 4, 1994, Akers did not violate any of the terms or conditions of the foregoing "Domestic Violence Order" and no

such violations have been alleged. (c) **Thereafter, Akers vowed to never return to Kentucky**; (d) **Akers did not return to any location within the Commonwealth of Kentucky until extradited to Fayette County therein on October 2, 1995**[65]; and (d) **there are no allegations to the contrary**.

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[64] See hereinabove paragraph E-50(d) & (e); and **K.R.S. 516.030** [supra, page 37 hereof], i.e., "(1) A person is guilty of forgery in the second degree when, **with intent to defraud, deceive**, or injure another, **he falsely** makes, **completes, or alters a written instrument** which is or purports to be or **which is calculated to become or to represent when completed**: (a) a deed, will, or codicil, **contract, assignment**, ...or **other instrument which does or may evidence**, create, transfer, terminate **or otherwise affect a legal right**, interest, obligation, or status; **or (b) A public record or an instrument filed** or required or authorized by law to be filed in or **with a public office or public employee**; (2) Forgery in the second degree is a Class D felony" (emphasis added)

[65] Kentucky authorities apparently relied upon **TITLE 18 U.S.C. § 2265** [supra, page 16 hereof (enacted 09/13/94)], i.e., "**Full faith and credit given to protection orders**: **(a) Full faith and credit.** - Any protection order issued **that is consistent with subsection (b) of**..." (continued, page 83 hereof)

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55. Having resided at the Courtyard Inn and/or Residence Inn, in Brentwood, Tennessee, since September 24, 1994; and having already informed the Akers' son, Alan, of Akers' new address and telephone numbers; Akers moved into his new home in Brentwood, Tennessee, on October 24, 1994.

FACTS SUB JUDICE/ FEDERAL JURISDICTION INVOKED

56. (a) On, or about October 28, 1994, Akers began to receive anonymous telephone calls at his hereinabove residence, during which the calling party would simply hold the phone and remain silent; and (b) Akers having heard that Bishop had been complaining (to several individuals) that she "didn't get anything out of the divorce"[66]; and (c) suspecting that she "needed help"; (d) Akers phoned Allen Rushing (Bishop's boss at CBT and...

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[65] **TITLE 18 U.S.C. § 2265** (continued from page 82 hereof): "... **this section** by the court of one State...(the issuing State...) shall be accorded full faith and credit by the court of another State ...(the enforcing State...) and enforced as if it were the order of the enforcing State..." However, § (b) thereof **clearly states**: "Protection order. - A protection order issued by a State...**is consistent with this subsection [only] if-** (1) such court has **jurisdiction over the parties** and matter under the law of such State...; **and** (2) **reasonable notice and opportunity to be heard is given** to the person against whom the order is sought sufficient **to protect that person's right to due process**. In the case of ex parte orders, **notice and opportunity to be heard must be provided** within the time required by State...law, and **in any event within a reasonable time** after the order is issued, sufficient **to protect the respondent's due process rights**." (emphasis added); **See also**: hereinafter paragraphs E-68, & E-70 through E-77.

[66] **See: K.R.S. 505.010 Entrapment** [supra, page 32 hereof], i.e., "**A person is not guilty** of an offense arising out of a proscribed conduct **when**: (a) **He was induced or encouraged** to engage in that conduct by a public servant-or **by a person acting in cooperation with a public servant seeking to obtain evidence against him for the purpose of a criminal prosecution**; and (b) At the time of the inducement or encouragement, **he was not otherwise disposed to engage in such conduct**. (emphasis added)

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hereinafter "Rushing"), **at his home**, on October 31, 1994, just to inquire as to Bishop's welfare. (e) It was at this time that Akers first learned that Bishop had received surgery on August 31, 1994, and might "file criminal charges" against Akers unless she received more money.[67]

57. The following week, on November 3, 1994, Akers phoned Bishop's attorney (Kelly) and reminded him of their "agreement" of September 23, 1994 [see Exhibit "U" hereto] which waived such...

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[67] **See**: **TITLE 18 U.S.C. § 2. Principals** [supra, page 11 hereof], i.e., "(a) Whoever **commits** an offense against the United States or **aids, abets, counsels**, commands, **induces, or procures** its commission, **is punishable as a principal**. (b) Whoever willfully causes an act to be done which if directly performed by him or another would be an offense against the United States, is punishable as a principal." (emphasis added); **TITLE 18 U.S.C. § 873. Blackmail** [supra, page

12 hereof], i.e., "Whoever, **under threat** of informing, or as a consideration for not informing, against any law of the United States, **demands...any money or other valuable thing**, shall be fined under this title or imprisoned not more than one year, or both." (emphasis added); **TITLE 18 U.S.C. § 875. Interstate communications** [id.], i.e., "(d) Whoever, **with intent to extort** from any person, firm, association, or corporation, **any money or other thing of value, transmits in interstate** or foreign commerce **any communication** containing any threat to injure the property **or reputation** of...another...**or any threat to accuse...any other person of a crime**, shall be fined under this title or imprisoned not more than two years, or both." (emphasis added); **TITLE 18 U.S.C. § 1961. Definitions** [supra, page 14 hereof], i.e., "(1) 'racketeering activity' means (A) **any act or threat** involving...kidnapping, ...robbery, bribery, extortion, ...**or which is chargeable under state law and punishable by imprisonment for more than one year**; (B) any act which is indictable under any of the following provisions of title 18, United States Code: ...section 1343 (relating to wire fraud), ...section 1503 (relating to obstruction of justice); ...section 1512 (relating to tampering with a witness, victim, or an informant); (2) 'State' means **any State** of the United States, the District of Columbia, the Commonwealth of Puerto Rico, **any territory** or possession of the United States, any political subdivision, or any department, agency, or instrumentality thereof; (3) 'person' includes any individual, or entity capable of holding a legal or beneficial interest in any property; (4) 'enterprise' includes any individual, partnership, corporation, association, or other legal entity, and **any union or group of individuals associated in fact** although not a legal entity; (5) 'pattern of racketeering activity' **requires at least two acts** of racketeering activity, one of which occurred after the effective date of this chapter and at least..." (continued, page 85 hereof)

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[67] **TITLE 18 U.S.C. § 1962** (continued from page 84 hereof): "... one of which occurred within ten years after the commission of a prior act of racketeering activity" (emphasis added); **TITLE 18 U.S.C. § 1962. Prohibited activities** [id.], i.e., "(a) It shall be unlawful for any person who has received any income derived, directly or indirectly, from a pattern of racketeering activity...in which such person has participated as a principal within the meaning of section 2, title 18, United States Code, **to use or invest, directly or indirectly, any part of such income**, in acquisition of any interest in, **or the activities of which affect**, interstate commerce; (d) It shall be unlawful for any person **to conspire** to violate any of the provisions of subsection (a), (b), or (c) of this section" (emphasis added); **TITLE 42 U.S.C. § 1983. Civil action for deprivation of rights** [id.], i.e., "**Every person** who, **under color of any statute**, ordinance, custom, or usage, **of any State** or Territory or the District of Columbia, **subjects, or causes to be subjected, any citizen of the United States** or other person within the jurisdiction thereof **to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws**, shall be liable to the party

injured in an action at law, suit in equity, or other proper proceeding for redress" (emphasis added); **TITLE 42 U.S.C. § 1985. Conspiracy to interfere with civil rights** [id.], i.e., "(2) If **two or more persons in any State** or Territory or the District of Columbia **conspire** to...influence the verdict, presentment, or indictment of any grand or petit jury..., or **if two or more persons conspire** for the purpose of impeding, hindering, obstructing, or defeating, **in any manner, the due course of justice in any State or Territory, with the intent to deprive any citizen...equal protection of the laws,** or to injure him or his property for lawfully enforcing, or **attempting to enforce,** the right of any person, or class of persons, to the equal protection of the laws, (3) ...**in any case of conspiracy** set forth in this section, **if one or more persons** engaged therein **do, or cause to be done, any act in furtherance of the object of such conspiracy,** whereby another is injured in his person **or property, or deprived of having and exercising any right or privilege** of a citizen of the United States, the party so injured or deprived may have an action for the recovery of damages occasioned by such injury or deprivation, against one or more of the conspirators" (emphasis added); United States Constitution: **ARTICLE I-SECTION 9** [supra, page 5 hereof], i.e., "[1.] The **migration** or importation of such persons as any of the states...shall think proper to admit, **shall not be prohibited**..." (emph. added); **ARTICLE IV-SECTION 2**: [id. page 6 hereof], i.e., "[1.] The citizens of each state shall be entitled to **all privileges and immunities** of citizens in the several states" (emph. added); **FOURTH AMENDMENT** [id., page 7 hereof], i.e., "The right of the people to be secure in their **persons**, houses, papers, and effects, against unreasonable searches and **seizures**, shall not be violated, and **no Warrants shall issue, but upon probable cause**" (emphasis added); **FIFTH AMENDMENT** [id.], i.e., "No person shall **be held** to answer for ...infamous crime, **unless on a presentment or indictment** of a Grand Jury, **nor shall any person be subject for the same offence to be twice put in jeopardy** of life or limb"; ...**nor be deprived of...liberty**, or property, **without due process of law**" (emph. added); **FOURTEENTH AMENDMENT** [id., page 10 hereof], i.e., "**All persons** born or naturalized in the United States, and subject to the jurisdiction thereof, are **citizens of the United States** and of the **State wherein they reside**. **No State** shall make or enforce **any law** which shall abridge the privileges or immunities of..." (continued, page 86 hereof)

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further compensation to Bishop and again questioned whether, in fact, the purported signature of Bishop thereon was authentic.[68]

58. Having been substantially alarmed by the statements of Rushing and Kelly, Akers then attempted to contact Bishop on November 4, 1994, in an effort to ascertain the truth. However, Bishop would either hang up immediately or divert

Akers' calls to other bank personnel, and a new warrant was, apparently, issued against Akers for "Contempt of Court". **Akers was never served with this warrant and was unable to confirm its existence until August 9, 1995.**

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[67] **FOURTEENTH AMENDMENT, United States Constitution** (continued from page 85 hereof): "... citizens of the United States; **nor shall any state deprive any person of life, liberty, or property, without due process of law;** nor deny any **person within its jurisdiction equal protection of the laws**" (emph. added); **Constitution of Tennessee** [supra, page 18 hereof, et seq.]: **ARTICLE 1, SECTION 8. No man to be disturbed by law.** - "That **no man shall be taken or imprisoned, or disseized of his freehold, liberties or privileges,** outlawed, **or exiled or in any manner destroyed or deprived of his life, liberty, or property, but by the judgement of his peers or the law of the land.**" (emph. added); **ARTICLE 1, SECTION 14** [id.], i.e., **"Prerequisites to criminal charge** - That **no man shall be put to answer any criminal charge but by presentment, indictment or impeachment.**" (emphasis added); **Tennessee Criminal Code** [supra, page 21 hereof], i.e., **"39-17-309. Civil rights intimidation.** - (a) The general assembly finds and declares that **it is the right of every person regardless of race, color,** ancestry, or national origin, **to be secure and protected from fear, intimidation, harrassment and bodily injury caused by the activities of groups and individuals.** The general assembly recognizes the **constitutional right of every citizen to harbor and express beliefs on any subject** and to associate with others who share similar beliefs. The general assembly further finds that the advocacy of unlawful acts by groups or individuals against other persons or groups for the purpose of inciting and provoking damage to property and bodily injury or death to persons is not constitutionally protected, poses a threat to public order and safety, and should be subject to criminal sanctions. (b) **A person commits the offense of intimidating others from exercising civil rights who:** (1) Injures or threatens to injure or coerces **another person with the intent to unlawfully intimidate another from the free exercise or enjoyment of any right or privilege secured by the constitution or laws of the state of Tennessee."**

[68] See hereinabove paragraph E-50(d), E-53, & E-56(e).

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59. On December 8, 1994, Akers met Deborah L. Harvil (Akers' current fiance' and hereinafter "Harvil") in Brentwood, Tennessee. Akers and Harvil quickly developed a quasi-marital relationship and have maintained that relationship since early

March of 1995.

60. Reflecting upon those facts in hereinabove paragraphs E-4 through E-6, E-16, E-17, E-28(b), and E-53, and being reluctant to proceed with his relationship with Harvil until those were resolved[69]; Akers phoned Bishop on, or about December 15, 1994, and inquired as follows: "Have I lost you forever, Carolyn?" Bishop responded: "Yes, Gorden, you've lost me forever." A few hours later, Akers' mother (Woodsie) phoned him and frantically informed Akers that the police had just been to her house "looking for" Akers with "some kind of papers".

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[69] See United States Constitution: **ARTICLE I-SECTION 10** [supra, page 6 hereof]: "**No state shall...pass any** bill of attainer, ***ex post facto* law** or law impairing the obligation of contracts, or grant any title of nobility." (emphasis added); **FIRST AMENDMENT [supra, page 7 hereof]**: "Congress shall make no law respecting ...religion, or prohibiting the free exercise thereof; **or abridging freedom of speech...**; [or the right to] petition the government for redress **of grievances**"; (emphasis added); **FOURTEENTH AMENDMENT** [supra, page 10 hereof]: "**All persons** born or naturalized in the United States, and subject to the jurisdiction thereof, are **citizens of the United States** and of the **State wherein they reside**. **No State** shall make or enforce **any law** which shall abridge the privileges or immunities of citizens of the United States"; **TITLE 42 U.S.C. § 1985** [supra, page 16 hereof]. **Conspiracy to interfere with civil rights**: (2) If **two or more persons in any State** or Territory or the District of Columbia **conspire** to...influence the verdict, presentment, or indictment of any grand or petit jury..., or **if two or more persons conspire** for the purpose of impeding, hindering, obstructing, or **defeating, in any manner, the due course of justice in any State** or Territory, with **the intent** to deprive any citizen...equal protection of the laws, or to injure him **or his** property for lawfully enforcing, or **attempting to enforce**, the right of any **person**, or class of persons, to the equal protection of the laws; (3) ...**in any case of conspiracy** set forth in this section, **if one or more persons** engaged therein **do, or cause to**..." (continued, page 88 hereof)

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61. On January 31, 1995, Akers' mother again phoned Akers in Nashville, and frantically informed him that the police had yet again just been to her residence looking for Akers. Akers...

[69] **TITLE 42 U.S.C. § 1985** (continued from page 87 hereof): "... **be done, any act in furtherance of the object of such conspiracy**, whereby another is injured in his person **or property, or deprived of having and exercising any right or privilege** of a citizen of the United States, the party so injured or deprived may have an action for the recovery of damages occasioned by such injury or deprivation, against one or more of the conspirators; (emphasis added). See also: **Tennessee Constitution**: **ARTICLE 1, SECTION 3. Freedom of worship** [supra, page 18 hereof], i.e, "That all men have a natural and indefeasible right to worship Almighty God to the dictates of their own conscience; ...**that no human authority can, in any case whatsoever, control or interfere with the rights of conscience**" (emphasis added); **Tennessee Criminal Code** [supra, page 21 hereof], i.e., "**39-17-309. Civil rights intimidation**. - (a) The general assembly finds and declares that **it is the right of every person regardless of race, color**, ancestry, or national origin, **to be secure and protected from fear, intimidation, harassment and bodily injury caused by the activities of groups and individuals**. **It is not the intent of this section to interfere with the exercise of rights protected by the constitution of the United States**. The general assembly recognizes the **constitutional right of every citizen to harbor and express beliefs on any subject**... (b) **A person commits the offense of intimidating others from exercising civil rights who**: (1) Injures or threatens to injure or **coerces another person with the intent to unlawfully intimidate another from the free exercise or enjoyment of any right or privilege secured by the constitution or laws of the state of Tennessee.**" (emphasis added); **Ky Const § 1** [supra, page 26 hereof]. **Rights of life, liberty, worship, pursuit of safety and happiness, free speech, acquiring and protecting property, ... redress of grievances, bearing arms**: "**All men** are, by nature, free and equal, and **have certain inherent and inalienable rights**, among wich may be reckoned: **First**: The right of enjoying and **defending their** lives and **liberties**; **Second**: The right of worshipping Almighty God **according to the dictates of their consciences**; **Third**: The right of seeking and pursuing their safety and happiness; **Fourth**: The right of **freely communicating their thoughts and opinions**; **Fifth**: The right of acquiring and **protecting property**; ...**Seventh**: The right to bear arms in defense of themselves..." (emphasis added); **Ky Const § 5** [supra, page 26 hereof]: "**No human authority shall**, in any case whatever, **control or interfere with the rights of conscience**" (emphasis added); **Const § 19 (1)** [supra, page 28 hereof]: "No **ex post facto** law, ...shall be enacted" (emph. added); **Ky Const § 24** [supra, page 28 hereof]: "**Emigration** from the State **shall not be prohibited**" (emphasis added); **Ky Const § 26** [id.]: "To guard against transgression of the high powers we have delegated, We Declare that **every thing in this bill of rights is excepted out of the general powers of government and shall forever remain inviolate; and all laws contrary thereto, or contrary to this Constitution, shall be void**." (emphasis added)

responded by calling Bishop at her office and stating: "You G- - d- - bitch, you have a law suit staring you in the face that you can't handle." Bishop then immediately hung up on Akers. [see Exhibit "X" hereto]

62. Having "cooled down", and regretting his foul language on the previous day, Akers phoned Bishop on February 1, 1995, and stated as follows: "The truth be known, Carolyn, I still love you and don't want any further problems for either of us. I just want you to leave my mother alone and stop telling lies on me." Apparently, Bishop hung up on Akers and began diverting his calls to other bank personnel. [Exhibit "Y" hereto]

63. As an apparent "follow-up" procedure, the police again appeared at Akers' mother's home in Lexington, March 21, 1995, and unlawfully conducted a full search of that home. Following yet another frantic call from his mother, Akers phoned Bishop at her office and asked: "Do you think you have enough warrants out for my arrest?" As usual, Bishop immediately hung up on Akers.

64. With the exception of those telephone calls detailed in hereinabove paragraphs E-52, & E-54 through E-57, which were all placed from Akers home in Brentwood, Tennessee, [see TT#3, D. Harvil, 05/21/96, 15:27:35], there were **no other incidents of contact or communication**" between Akers and Bishop (<u>and none have been alleged</u>); **nor was Akers ever physically within <u>200 miles of Bishop</u>, her family, her church, her workplace, her home, <u>or otherwise</u>** [see TT#1, L. Red Corn, 05/20/96, 11:06:35]; **nor did Akers ever knowingly or intentionally**...

"threaten" Bishop, <u>in any manner</u> (other than with a civil lawsuit), **during the period of time specified in Akers' original indictment <u>or amended indictment</u>** for "Stalking in the First Degree".

65. (a) On May 5, 1995, Bishop sought to extend the hereinabove "Domestic Violence Order" which was due to

expire, **by its own language**, on May 18, 1995; (b) Notwithstanding Bishop's actual knowledge that Akers was residing in Nashville, Tennessee, and **had never resided with his mother in Lexington, Kentucky, home**, Bishop purported to have Akers "served" at his mother's address; (c) Bishop then alleged that there was a "weapon involved" in Akers' case [see Exhibit "Z" hereto]; and (d) As the direct result of Bishop's clearly fraudulent misrepresentations with respect to Akers' whereabouts and residence, Akers was never served with a "Summons" directing him to appear in Fayette District Court on May 17, 1995. [see "Domestic Violence Summons", stamped "Expired", Exhibit "AA"]

66. (a) Notwithstanding those facts in hereinabove paragraph E-65, Fayette District Judge Thomas Clark conducted a hearing on May 17, 1995, **at which Akers was not present**[70], and...

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[70] See also: U.S. v. Casciano, **927 F.Supp. 54 N.D.N.Y. 1996**, i.e., "11. ...**For purposes of crossing a state line** with intent **to engage in conduct in violation of protective order, if court issuing order has failed to obtain personal jurisdiction** over defendant by service of process, **then order was invalid and prosecution cannot survive**. 18 U.S.C.A. § 2262(A)(1); 12. Due process clause requires that notice be reasonably calculated, **under all circumstances**, to apprise interested parties of penalty of an action and afford them an opportunity to present their objections. **U.S.C.A. Const. Amend. 5**." (emphasis added)

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invalid pursuant to Akers' "due process rights"[71] secured by the Fifth & Fourteenth Amendments to the United States Constitution.

67. On Father's Day weekend, 1995, Akers' mother (Woodsie) and son (Alan) drove to Nashville to visit Akers and Harvil and, before leaving to return to Lexington, Woodsie informed Akers that the police had yet again been to her home "with some kind of papers for [Akers]".

68. On July 7, 1995 (some seven weeks after "expiration" of the only "Domestic Violence Order" of which Akers was

aware), Akers telephoned Bishop at her office and made the following statement: "I told you to leave my mother alone. I'm going to go for the throat now. I'm going to have to go ahead and sue you." [see Exhibit "BB" hereto]

69. In July of 1995, Akers and Harvil established Cadre Construction Corporation (hereinafter "Cadre"), a "successor-in-fact" to hereinabove Coleman/Akers & Akers, Inc. ("C/AA"), and incorporated said Cadre Construction Corporation under the laws of the State of Tennessee on August 2, 1995. [see "Articles of Incorporation", Exhibit "CC" hereto]

70. On August 9, 1995, Akers was arrested near Nashville, Tennessee, for his first time ever "D. U. I." charge, and the resulting "N. C. I. C." report revealed that Akers was charged in the State of Kentucky with "4th Degree Assault, Contempt of Court, Harassing Communications, and potentially Stalking" [see...

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[71] See: **U.S. Const. Amends. 5 & 14** [supra, pages 7 & 10, respectively]; and footnote [5] [id., page 8 hereof]

Exhibit "DD" hereto]. That same evening, Akers was arraigned as a "Fugitive of Justice" and remanded to custody pending a bond hearing in Nashville General Sessions Court.

71. On August 15, 1995, Akers was released from custody on a $60,000 Full Cash Bond and a "Probable Cause Hearing" was set for September 21, 1995, on the "fugitive" charges. It was at that time (08/15/95) that Akers first learned of the "extension" of the "Domestic Violence Order" as detailed in the hereinabove paragraphs E-59 & E-60. **After August 15, 1995, Akers has not, even remotely, violated any of the terms or conditions of that Order and no such violations have been alleged.**

72. On August 22, 1995, Bishop filed/entered a "Criminal Complaint" [Exhibit "EE"], **fraudulently alleging** that Akers had "unlawfully committed the offense [of] K.R.S. 508.140 Stalking in the First Degree"[72] and as grounds therefor that Akers had

intentionally stalked her from November of 1994 through August 22, 1995; that Akers had **"made threats" to her "of serious physical injury and death"**; that she had **"an active Domestic Violence Order on [Akers]"**; and that Akers had "repeatedly made telephone calls" to [Bishop] and members of her family, friends, ...

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[72] **The required elements** of "Stalking in the First Degree -- 508.140" are as follows: "(1) **Intentionally** (2) Stalk another person; and (3) Make an explicit or implicit threat **with intent** to place that person in **reasonable fear** of: (a) Sexual contact as defined in KRS 510.010, or (b) Serious physical injury, or Death; and (4)(a)(i) A protective order or another judicial order as provided in KRS Ch 403 has been issued to protect same victim, and (ii) **Defendant has been served with the summons or order or been given actual notice**; [or (b)(i), (c)(i), and (d) **do not apply**]; and (5) **Venue**." [West Group/Westlaw Publishing, Kentucky Revised Statutes, 1995 Edition (emphasis added)]. **See also**: Hereinabove paragraphs E-51 thru E-68.

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and/or associates "threatening to do serious physical injury" to her and others "such as that" [Akers] "[was] not done with [her]" and **"was going to go for [her] throat"**.[73]

73. As well on August 22, 1995, then Fayette (Kentucky) District Judge Thomas D. Clark (the same Judge Clark who issued the original "Domestic Violence Order" and then granted its "extension" in Akers absence, see hereinabove paragraphs E-29 through E-31, E-35, E-59 & E-60), issued a "Warrant for Arrest" [see Exhibit "FF"] of Akers pursuant to the "Criminal Complaint" as detailed in hereinabove paragraph E-65.

74. On August 29, 1995, Fayette County Attorney Margaret H. Kannensohn issued an "Application for Requisition of James Gorden Akers" [Exhibit "GG"] charging Akers "with the crime(s) of Stalking 1st in violation of KRS 508.140, **having committed an act or acts on or about the 1st day of February, 1995, in the State of Tennessee**, which intentionally resulted in the commission of said crime(s) in Fayette County, Kentucky". (see hereinabove paragraphs E-56 thru E-58, E-60, **esp. E-61**, & E-62).

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[73] This comment was **intentionally** taken **completely** out of context by Bishop inasmuch as it was **clearly made by Akers with reference to Akers' statement on January 31, 1995, in effort to obtain Bishop's agreement to "stop telling lies on [Akers]" and stop harassing Akers' elderly mother** by sending police officers to her house for unlawful purposes [See hereinabove paragraphs E-50(g), E-51, E-53, & E-56 through E-63 (**esp. E-61**)]; and as a covert means for Bishop to bar Akers from pursuing Akers **legal action against Bishop** for her unlawful acts outlined in hereinabove paragraphs A-2, A-3(a) thru (c); E-11, E-14, E-16, E-18, E-24, E-30, E-32 thru E-36, E-38 thru E-42, E-43(a) thru (c), E-44, E-47, E-49, E-50(f), E-56(b), E-60, E-63, E-65(b) thru (d), E-66, & E-67. It is also **crucial herein** to recognize that this "phrase" is used commonly in modern society among sports commentators **and numerous other "high-profile" individuals**; and that Bishop has heard Akers use that phrase, **in a figurative sense, on numerous occasions, since the early 1970's**.

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75. On August 30, 1995, a "Governor's Warrant" was issued by Kentucky Governor Brereton Jones, stating that "James Gorden Akers a/k/a James Gorden Akers, as shown by Criminal Complaint/Affidavit and Warrant for Arrest [is charged with] the crime(s) of Stalking, First Degree, **committed while outside the state** which resulted in the commission of a crime in the County of Fayette, Commonwealth of Kentucky". [see Exhibit "HH" hereto,] (emphasis added)

76. On September 14, 1995, Tennessee Governor Don Sunquist issued a "Rendition Warrant" [Exhibit "II"] stating: "WHEREAS, it has been represented to me by the State of Kentucky, that James Gordon Akers a/k/a James Gorden Akers stands charged by Criminal Complaint/Affidavit & Warrant of Arrest in said State with having committed the crime(s) of Stalking, First Degree, **committed while outside the State of Kentucky**, resulting in the commission of crime in the State of Kentucky and said fugitive is a fugitive from the justice of said State and has taken refuge in the State of Tennessee". (emphasis added)

77. On September 21, 1995, Akers appeared in Court for the "Hearing" as detailed in hereinabove paragraph E-71 [see Exhibit "DD"). Akers and his attorney were prepared to

challenge,[74] by writ of habeas corpus, Akers "fugitive" status and the validity...

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[74] Kentucky authorities, esp., the Fayette County [Kentucky] Attorney's office and [Kentucky] Commonwealth's Attorney's office **refused** to provide Akers and/
or his attorneys with specific dates on which the alleged stalking prior had occurred prior to extradition and, thereby, **effectively foreclosed and barred** Akers' assertion of a **writ of habeas corpus as permitted by both the U.S. and Tennessee Constitutions**. [see CP#1, C. Perkins, 11/10/95, 13:11:11, et seq.]

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of the charges in Kentucky [see Exhibit "JJ" hereto]. Akers was immediately arrested, however, before the Judge was brought in and Court was even convened. Akers was then remanded to custody until extradited to Fayette County, Kentucky, on October 2, 1995, notwithstanding the best efforts of Akers and his attorneys to resolve/discharge all matters amicably.[75] [see Collective Exhibits "KK" hereto]

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[75] "**Interstate extradition** involves a significant...restraint of liberty and, as such, **necessitates a showing of probable cause**." **Wellington v. State of S.D., D.C.S.D.1976, 413 F.Supp., 151**. (emphasis added) See Also: **Walton v. State, 1977, 566 P.2d 765, 98 Idaho 422**; "**Probable cause** to find that a person to be extradited is a **fugitive from justice** in demanding state is a **condition precedent to valid extradition**." **Ross v. Hegstrom, 1969, 254 A.2d. 556, 107 Conn. 403** (emphasis added); "In determining whether a party named in a requisition and rendition warrant is a fugitive from justice, a finding must be made in substance that a crime is alleged, that the named party committed the crime and fled from the demanding jurisdiction, and **it must appear that accused was within the demanding state when crime was committed** so as to constitute him a fugitive by his commission of crime and his **later flight**." **State v. Phillips, 1960, 162 A.2d 113, 62 N.J.Super. 70, affirmed 167 A.2d 175, 34 N.J. 63** (emphasis added); "In extradition proceedings, inquiry is restricted to whether accused is substantially charged with crime in the demanding state, **and whether he was physically in the demanding state at time crime charged is alleged to have been committed**." **People v. ex rel. Johnson v. Ruthazer, 1951, 102 N.Y.S.2d 39, 198 Misc. 1044, affirmed 105 N.Y.S.2d 394, 278 App.Div. 905** (emphasis added); **Clayton v. Wichael, 1966, 141 N.W. 2d 538, 258 Iowa**

1037; Wigehert v. Lockhart, 1946, 166 P.2d 988, 114 Colo. 485; Ex parte Foster, 1936, 61 P.2d 37, 60 Okla.Cr. 50; "No person may be lawfully removed from one state to another by virtue of this [Sec. 2, cl. 2], unless...; 2. He has fled from justice; ..., and if either of these conditions are absent, the Constitution affords no warrant for a restraint of the liberty of any person." Pierce v. Creecy, Mo. 1908, 28 S.Ct. 714, 210 U.S. 387, 52 L.Ed. 1113; Ex parte Morgan, D.C.Cal. 1948, 78 F.Supp. 756, affirmed 175 F.2d 404, certiorari denied 70 S.Ct. 76, 338 U.S. 827, 94 L.Ed. 503; "Under this [Sec. 2, cl. 2] and Federal Extradition Act, 18 U.S.C.A. former § 662 [now §§ 3182, 3195], an extradition is unwarranted unless the accused is a fugitive from justice, and a 'fugitive from justice' is a person who commits a crime within a state and withdraws himself from such jurisdiction without waiting to abide the consequences of his act". Ex parte Montoya, 1943, 135 P.2d 281, 170 Or. 499. (It is apparent that the Kentucky authorities relied on Kentucky v. Dennison, 1861, 65 U.S. 66, 24 How. 66, 16 L.Ed. 717; Appleyard v. Massachusetts, Mass1906, 27 S.Ct. 122, 203 U.S. 222, 51 L.Ed. 161; Ex parte Williams, 1946, ..." (continued, page 96 hereof)

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78. On September 28, 1995, Akers' case was set for hearing before hereinabove Judge David Hayse in the "Domestic Relations Division" of Fayette District Court (as signified by the "Case 94-D-00396-001"). The hereunto relevant portions of the Court "Calender" [Exhibit LL"] for that proceeding are as follows:

"EVENT:	**COURT TRIAL** ***CONTEMPT FORTHWITH ORDER ARREST** ***IN CUSTODY** ***25,000 FC/BOND**
PROCEEDINGS:	**cont 10-3-95 930 for county to determine if Double Jeopardy, Subp Pet."**

79. On October 3, 1995, Akers was ordered remanded to the Fayette County Detention Center upon an "Order of Commitment" [Exhibit"MM" hereto (**"Case No. 94-D-00396-001"**)] "having been sentenced on the charge of 'Violation of Protective Order'".[75]

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[74] "**Interstate extradition** (continued from page 95 hereof): "...**21 N.W.2d, 593, 71 S.D. 95**; **Olso v. Thurston, Me.1978, 393 A.2d 1320**; and, especially, **Com. ex rel. Marshall v. Gedney, 1975, 352 A.2d 528, 237 Pa.Super. 372, affirmed 386 A.2d 942, 478 Pa. 299**, as authorities for Akers' extradition. Those cases, however, do not encompass, ***inter alia***, "**fraud**" [see **TITLE 18 U.S.C. § 1341 and corresponding footnote** [4], page 11 hereof]; "**conspiracy**" [see **TITLE 42 U.S.C. § 1985** and corresponding footnotes [7], [8], & [9], pages 13 & 14 hereof]; and/or "**malice**", which is defined as: "The **intentional** doing of a wrongful act without just cause or excuse, **with an intent to inflict an injury** or under circumstances that the law will imply an evil intent." [Black's Law Dictionary, Sixth Edition, 12th Reprint-1998, emphasis added].) **See also**: **TITLE 18 U.S.C. § 1201. Kidnapping** [supra, page 12 hereof].

[75] **See also**: **K.R.S. 403.763**, i.e., "(1) A person is guilty of **violation of a protective order when he intentionally violates the provisions of an order issued pursuant to KRS 403.715 to 403.785 with which he has been served or has actual notice**. ...(2) Violation of a protective order is a **Class A misdemeanor**."; and **K.R.S. 403.760(5)** [supra, page 30 hereof], i.e., "**Civil proceedings and criminal proceedings are mutually-exclusive**. **Once either has been initiated, the other may not be undertaken regardless of the outcome of the original proceeding**." (emphasis added)

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80. As well on October 3, 1995, Akers' case resumed before Fayette [Kentucky] District Court Judge Julia Tackett [see "Calender", Exhibit "NN"]. Hereunto relevant portions of that proceeding include, but are not limited to, the following:

> "**PROCEEDING:** **...Possible Double Jeopardy...**
> **Am: 26,000 F/C property...Bond"**

Akers' mother (Woodsie) then posted the hereinabove "$26,000 Property Bond, Akers was released from custody and, promptly, returned to Nashville, Tennessee, with Harvil. Akers was scheduled to return to Courtroom 3, Fayette District Court on November 10, 1995. [see Court Document/Bail Bond, Exhibit "OO"]

81. On November 6, 1995, Bishop and Fayette (Kentucky) Assistant Commonwealth's Attorney, Lou A. Red

Corn (hereinafter "Red Corn"), went before the Fayette County Grand Jury seeking an indictment of Akers on one (1) count each of "First Degree Stalking and "First Degree Assault". Hereunto relevant portions of the "Transcript" (Exhibit "PP" hereto) of that proceeding include, **but are not limited to**, the following:

Unknown Speaker: Do you swear or affirm that the testimony you are about to give is the truth?

[Bishop]: I do. (Page 33, lines 4 thru 8)

[Bishop]: And so then all of a sudden he jumped up out of the bed and came over to my side, **he grabbed me by the hair of the head** and he pulled me out of the bed, and **he was kicking me, and he was hitting me with his fist in the mouth**. He drug me ov[illegible] in the hall and he was hitting me and kicking me, and **it all**...

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happened so fast I don't know what all happened, but there was a big hole in the wall and evidently he knocked me through the wall. (Page 37, lines 2 through 14, emphasis added)[76]

[Bishop]: I think got about an hour's sleep and I got up the next morning and tried to cover my bruises with makeup **and I went to work the next morning**. (Page 39, lines

13 through 16)[77] (emph. added)

Red Corn: Tell us about your injuries.

[Bishop]: Um, I had -- I had a busted lip, I had bruises on my legs, I wasn't sure of the extent of my injuries. Then a couple of days later I started having pain in my right arm and my neck started bothering me and I wasn't sure what was going on. And I ended up going to the doctor, **Dr. Fulmer** (Page 40, lines 13 through 22) and he **saw my bruises and he said, "I'm going to have to report this**." And --(Page 41, lines 1 through 3)[77]

Red Corn: What did the doctor say was wrong with you?

[Bishop]: He -- he sent me to have a -- a test done at the hospital. An MRI at Central Baptist.

Red Corn: And what did the MRI show? (Page 41, lines 14 through 21)

[Bishop]: The MRI showed that there were two ruptured disks in my neck, **one of them was ruptured into my spinal cord**. And he said it was -- **he said, "What happened, how" -- he said, "Something like this just couldn't happen**." I guess he wanted to know what happened that made me -- my neck had been...

[76] See also: TT#2, J. Preston, 10/27/98, 14:26:50, 14:36:05

[77] Note sharp contrast to Bishop's testimony in hereinabove paragraphs E-32 and E-38.

injured like that. And **when I told him exactly what had happened he said that was the reason, it was from when he had beat me up that night.**[78] (Page 42, lines 1 through 14, emphasis added)

Red Corn: When did you have your surgery?

[Bishop]: We ended up doing the surgery on August 30th.

Red Corn: Now, you got that Emergency Protective Order as a result of the assault, is that right? (Page 45, lines 21 thru 23)

[Bishop]: They -- when I went to court then I got the Emergency Protective Order. They gave -- they gave him a choice of spending six months in jail or going to Hazelden to an Alcohol Treatment Center. (Page 46, lines 19 thru 24)

Red Corn: During that time, from August until November 1st, did he attempt to contact you?

[Bishop]: From August to November [1994]?

Red Corn: Mm-hm. (affirmatively)

[Bishop]: Um -- I don't think so. (Page 47, lines 11 through 19)

Red Corn: Well, what kind of things would he say that frightened you?

[Bishop]: -- the biggest thing he said that frightened me the most was he said I'm a -- I won't say the words he said, but - uh -

Red Corn: Did he use a lot of profanity? (Page 49, lines 11 thru 21)

[Bishop]: A lot of profanity. And he would say "You haven't seen anything yet." And then he said that -- "I'm going to go...

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[78] See hereinabove paragraphs E-35 for **sharply contrasting testimony/view of Dr. Adrian Fulmer**.

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for your throat now," and he called me a name. And that really frightened me. (Page 50, lines 1 through 6)

Red Corn: Now, Carolyn -- uh -- what -- what did you -- what came to your mind when he told you he was going to go for your throat?

[Bishop]: As soon as he said that I thought

of a picture of me that used to be on the chest.

Red Corn: Is this the picture that you're talking about? (Page 51, lines 23 & 24)

[Bishop]: Yes.

Red Corn: And where did you find this picture?

[Bishop]: **I found it downstairs in the closet in a paper bag.** (emphasis added)

Red Corn: And I assume the picture was not in this condition when you last saw it.

[Bishop]: No, it wasn't, it was sitting on the chest. And I found it in a paper bag with broken glass in the bag -

[Bishop]: **...He had broken it and evidently had taken the glass and he had poked out my eyes and it looked like he slit my throat and -- and done all that to my picture, and I thought of that picture when he said he was going to go for my throat. It scared me.** (Page 52, lines 1 through 23; & Page 53, lines 1 through 6)[79] (emph. added)

Red Corn: Did these calls continue through November, December, January and

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[79] **Akers had no involvement in any such damage** to said "picture"; Akers has

no knowledge as to how any such damage may have occurred; and said "picture" was in **considerably better condition when last seen by Akers** and his mother, Woodsie Akers [see TT #3, 10/28/98, 09:23:00, et seq. (first trial), and TT #3, 10/27/98, 17:49:45, et seq. (second trial);] See also: Title 18 U.S.C. §§ 1503 & 1512 (supra, page 9 hereof); **K.R.S. 524.100** (id., page 19 hereof); and TT#3, L. Red Corn, 05/22/96, 10:04:15, et seq.

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February? (Page 56, Lines 21 - 23)

[Bishop]: Yes, they did. (Page 57, line 1)

Red Corn: Carolyn, back to your neck injury, how is your neck, how is your neck today?

[Bishop]: No.

Red Corn: Is your mobility or your movement -- is it fluid or as easy as it was before he assaulted you?

[Bishop]: No. (Page 59, lines 4 thru 20)

Unknown Speaker: Are you in a great deal of pain?

[Bishop]: Not a great deal, but when it – when it rains or the weather is bad like – then it hurts.[80]

Red Corn: Has Dr. Vaughn and your other physicians done everything they're going to do to fix or cure the problem?

[Bishop]: Yes.

Red Corn: So this is how it's going to be for

the rest of your life?

[Bishop]: Right. Dr. Vaughn gave me some -- an anti-inflammatory medicine for pain, but that's all they can do. (Page 60, lines 1 thru 21)

Based solely upon Bishop's and Red Corn's misrepresentations, which were clearly erroneous **and fraudulent** in view of those facts in hereinabove paragraphs E-2, E-8, E-11 through E-14, E-16, E-19 through E-36, E-38 through E-47, E-51 through E-54, ...

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[80] These are **classic symptoms of "arthritis"** and are **shared by hundreds of millions of persons around the world including Akers and, most likely, even members of this Honorable Court**. **See also**: TT#1, J. Vaughn, 05/20/00, 13:46:40, et seq.; and TT#1, J. Vaughn, 10/26/98, 16:27:40, 16:37:49, 16:47:30, 16:49:00, 16:50:25, 16:51:15, 16:51:40, & 16:53:00.

E-56 through E-66, & E-68, the Fayette County (Kentucky) Grand Jury returned an indictment against Akers [Exhibit "A" hereto] charging that:

> COUNT 1:
>
> On or about the 4th day of May, 1994, in Fayette County, Kentucky, the above named Defendent assaulted Carolyn Patrick Akers with his hands causing serious physical injury;[81]
>
> COUNT 2:
>
> From November 1994 until August 1995, in Fayette County, Kentucky, the above named defendant committed stalking in the first degree by intentionally stalking Carolyn Patrick Akers when he contacted her for no legitimate purpose, made explicit or implicit threats of serious physical injury or death while said James G. Akers was under a Domestic Violence

Order to have no contact with Carolyn Patrick Akers. (emphasis added)[82]

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[81] See: **TITLE 18 U.S.C. § 1503. Influencing or injuring officer or juror generally** [supra, page 13 hereof], i.e., "(a) Whoever **corruptly...endeavors to influence or impede any grand or petit juror**, or officer in or of any court of the United States, ...**or endeavors to influence, obstruct, or impede, the due administration of justice**, shall be punished as provided in subsection (b)." (emph. added); **TITLE 18 U.S.C. § 1512. Tampering with a witness, victim, or an informant** [id., page 14 hereof], i.e., "(b) Whoever knowingly uses **intimidation...or corruptly pursuades** another person, **or attempts to do so**, or engages in misleading conduct toward another person, **with intent** to-- (1) **influence**, delay, **or prevent the testimony of any person** in an official proceeding; (2) **cause or induce any person to**-- (A) withhold testimony, or withhold a record, document, or other object from an official proceeding; (B) **alter**, destroy, **mutilate**, or conceal **an object with intent to impair the object's integrity** or availability in an official proceeding; shall be fined under this title or imprisoned not more than ten years, or both." (emph. added); **TITLE 42 U.S.C. § 1983. Civil action for deprivation of rights**: [id., page 16 hereof], i.e., "**Every person** who, **under color of any statute**, ordinance, custom, or usage, **of any State** or Territory or the District of Columbia, **subjects, or causes to**..." (continued, page 103 hereof)

[82] See: **TITLE 18 U.S.C. § 1503. Influencing or injuring officer or juror generally** [supra, page 13 hereof], i.e., "(a) Whoever **corruptly...endeavors to influence or impede any grand or petit juror**, or officer in or of any court of the United States, ...**or endeavors to influence, obstruct, or impede, the due administration of justice**, shall be punished as provided in subsection (b)." (emph. added); **TITLE 18 U.S.C. § 1512. Tampering with a witness, victim, or an informant** [id., page 14 hereof], i.e., "(b) Whoever knowingly uses **intimidation...or corruptly**..." (continued, page 104 hereof)

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[81] **TITLE 42 U.S.C. § 1983** (continued from page 102 hereof): "...**be subjected, any citizen of the United States** or other person within the jurisdiction thereof **to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws**, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress" (emphasis added); **TITLE 42 U.S.C. § 1985. Conspiracy to interfere with civil rights** [id.] (2) If **two or more persons in any State** or Territory or the District of Columbia **conspire** to...influence the verdict, presentment, or indictment of any grand or petit jury..., or **if two or more persons conspire** for the purpose of impeding, hindering, obstructing, or defeating, **in any manner, the due course of justice**

in any State or Territory, with the intent to deprive any citizen...equal protection of the laws, or to injure him or his property for lawfully enforcing, or **attempting to enforce**, the right of any person, or class of persons, to the equal protection of the laws; (3) ...**in any case of conspiracy** set forth in this section, **if one or more persons** engaged therein **do, or cause to be done, any act in furtherance of the object of such conspiracy**, whereby another is injured in his person **or property, or deprived of having and exercising any right or privilege** of a citizen of the United States, the party so injured or deprived may have an action for the recovery of damages occasioned by such injury or deprivation, against one or more of the conspirators." (emphasis added). **See also**: **Ky Const § 13**: [supra, page 27 hereof], i.e, "**No person shall**, for the same offense, **be twice put in jeopardy** of his life and limb..." (emphasis added) and corresponding footnote [26] thereto, i.e., "**Fifth Amendment, U. S. Constitution** [supra, page 6 hereof]; **Sherley v. Commonwealth, 558 SW(2d) 615 (Ky 1977)**, i.e., "Where Commonwealth used the **same evidence** of force causing serious physical injury to elevate offense..., defendant was placed in double jeopardy by conviction of first degree assault on the basis of the same physical injury; ...K.R.S. 505.020, 506.010(4)(a), 508.101(1)(a), 510.040(1)(b), (2)" (emphasis added); **Crawley v. Kunzman, 585 SW(2d) 387 (Ky 1979)**, i.e., "[R]ight of appeal is not [an] adequate remedy against double jeopardy. U.S.C.A. Const. Amend. 5" (emph. added); and **Klee v. Lair, 621 SW(2d) 892, (Ky 1981)**, i.e., "[D]efendant's having been found guilty of **lesser included offense**...would **prohibit** him from being tried a second time for major offense." (emph. added); **Ky Const § 26** [supra, page 28 hereof], i.e., "To guard against transgression of the high powers we have delegated, We Declare that **every thing in this bill of rights is excepted out of the general powers of government and shall forever remain inviolate; and all laws contrary thereto, or contrary to this Constitution, shall be void**" (emphasis added) and corresponding footnote [30] thereto, i.e., "**These very same concerns, and safeguards against them**, were addressed by United States Supreme Court Justices Douglas & Marshall in landmark decision **North Carolina v. Pearce, 89 S.Ct. 2089 (1969)** [supra, page 6 hereof]. **See also**: **801 SW(2d) 321 (Ky 1990), Ingram v Commonwealth**, i.e., '**The Kentucky Constitution is superordinate to legislative intent**...'" (emphasis added); **K.R.S. 403.7505 (2)** [supra, page 30 hereof], i.e, "(a) '**Domestic violence**' is a pattern of coercive control which **includes physical**, sexual, psychological, and environmental **abuse, and is considered criminal conduct**" (emphasis added) in conjunction with hereinabove paragraphs E-31(tt), (uu), & (vv) through E-42, and corresponding footnotes [50], [51], [53], & [54] thereto. **Notwithstanding, see**: **K.R.S. 500.050 Time limitations**: [supra, page 31 hereof], i.e., "(2) Except as otherwise specifically provided, the..." (continued, page 104 hereof)

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[81] **K.R.S. 500.050 Time limitations** (continued from page 103 hereof): "... **prosecution of an offense other than a felony must be commenced within one year after it is committed**" (emph. added) in conjunction with **K.R.S. 508.030**

Assault in the fourth degree: [id., page 35 hereof], i.e., "(1) A person is guilty of assault in the fourth degree when: (a) He **intentionally or wantonly causes physical injury** to another person; **or (b) With recklessness he causes physical injury** to another person **by means of a deadly weapon or a dangerous instrument**. (2) Assault in the fourth degree is **a Class A misdemeanor**" (emphasis added) and K.R.S. **508.040 Assault under extreme emotional disturbance**: [id.], i.e., "(1) In any prosecution under KRS 508.010, 508.020, or 508.030, in which intentionally causing physical injury or serious physical injury is an element of the offense, a defendant may establish in mitigation that he acted under the influence of extreme emotional disturbance, as defined in subsection (1)(a) of KRS 507.020. (2) An assault committed under influence of extreme emotional disturbance is: (b) A Class B misdemeanor when it would constitute an assault in the fourth degree if not committed under the influence of extreme emotional disturbance" and hereinabove paragraphs E-31 (tt), (uu), & (vv) through E-42, and corresponding footnotes [50], [51], [53], & [54] thereto and footnote [7] [supra, page 13 hereof], i.e., "**Fraud**" defined: "A **false representation of a matter of fact**, whether by words or by conduct, **by false or misleading allegations, or by concealment of that which should have been disclosed**, which deceives and is intended to deceive another so that he shall act upon it to his legal injury; A generic term, embracing all multifarious means which human ingenuity can devise, ...to get advantage over another by false suggestions or **by suppression of the truth**...; As distinguished from negligence, **it is always positive, intentional**. It comprises **all acts, omissions, and concealments** involving a breach of a legal **or equitable duty and resulting in damage to another**. And includes **anything calculated to deceive**, whether it be a single act **or combination of circumstances**, whether the **suppression of truth or the suggestion of what is false**, whether it be direct falsehood or by innuendo, by speach or **by silence**, by word of mouth, **or by look or gesture**." [Black's Law Dictionary, Abridged Sixth Edition, 8th reprint-1988]

[82] **TITLE 18 U.S.C. § 1512** (continued from page 102 hereof): "...**persuades** another person, **or attempts to do so**, or engages in misleading conduct toward another person, **with intent** to-- (1) **influence**, delay, **or prevent the testimony of any person** in an official proceeding; (2) **cause or induce any person to**-- (A) withhold testimony, or withhold a record, document, or other object from an official proceeding; (B) **alter**, destroy, **mutilate**, or conceal **an object with intent to impair the object's integrity** or availability in an official proceeding; shall be fined under this title or imprisoned not more than ten years, or both." (emph. added); **TITLE 42 U.S.C. § 1983. Civil action for deprivation of rights**: [id., page 16 hereof], i.e., "**Every person** who, **under color of any statute**, ordinance, custom, or usage, **of any State** or Territory or the District of Columbia, **subjects, or causes to be subjected, any citizen of the United States** or other person within the jurisdiction thereof **to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws**, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress" (emphasis added); **TITLE 42 U.S.C. § 1985. Conspiracy to interfere with civil rights** [id.] "(2) If **two or more**..." (continued, page 105 hereof)

82. As well, on November 6, 1995, a "True Bill" was signed by the Grand Jury Foreperson [See Exhibit "A" hereto] charging Akers with: "COUNT 1: ASSAULT FIRST DEGREE KRS 508.010; UOR 13013 CLASS B FELONY"; and COUNT 2: STALKING FIRST DEGREE KRS 508.140; UOR 13242 CLASS D FELONY"; the same was "Filed and Entered" by the Fayette Circuit Court Clerk; bail was set for $7,500 full cash [CP#1, R. Overstreet, 11/10/95, 13:09:28, et seq.]; and the case was set for arraignment on November 10, 1995, before Fayette Circuit Judge Rebecca M. Overstreet...

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[82] **TITLE 42 U.S.C. § 1985** (continued from page 104 hereof): "... **persons in any State** or Territory or the District of Columbia **conspire** to...influence the verdict, presentment, or indictment of any grand or petit jury..., or **if two or more persons conspire** for the purpose of impeding, hindering, obstructing, or defeating, **in any manner, the due course of justice in any State or Territory, with the intent to deprive any citizen...equal protection of the laws,** or to injure him or his property for lawfully enforcing, or **attempting to enforce,** the right of any person, or class of persons, to the equal protection of the laws; (3) ...**in any case of conspiracy** set forth in this section, **if one or more persons** engaged therein **do, or cause to be done, any act in furtherance of the object of such conspiracy,** whereby another is injured in his person **or property, or deprived of having and exercising any right or privilege** of a citizen of the United States, the party so injured or deprived may have an action for the recovery of damages occasioned by such injury or deprivation, against one or more of the conspirators." (emphasis added). **See also**: Hereinabove paragraphs E-51, E-52, E-54 thru E-58, E-60 through E-68, & E-72 through E-80 and corresponding footnotes [63], [65], [66], [67], [68], [69], [70], [71], [72], [73], & [74] thereto and footnote [7] [supra, page 13 hereof], i.e., "**Fraud**" defined: "A **false representation of a matter of fact,** whether by words or by conduct, **by false or misleading allegations, or by concealment of that which should have been disclosed,** which deceives and is intended to deceive another so that he shall act upon it to his legal injury; ...A generic term, embracing all multifarious means which human ingenuity can devise, ...to get advantage over another by false suggestions or **by suppression of the truth**...; As distinguished from negligence, **it is always positive, intentional.** It comprises **all acts, omissions, and concealments** involving a breach of a legal **or equitable duty and resulting in damage to another.** And includes **anything calculated to deceive,** whether it be a single act **or combination of circumstances,** whether the **suppression of truth or the suggestion of what is false,** whether it be direct falsehood or by

innuendo, by speech or **by silence**, by word of mouth, **or by look or gesture**." [Black's Law Dictionary, Abridged Sixth Edition, 8th reprint-1988]

(hereinafter "Overstreet"), **who was and remains a long-standing and powerful member of the same church ("SCC") where Bishop is a high-profile member of the church choir**. It is, as well, worthy of note that Overstreet previously boasted (to great applause) to a Lexington area league of women voters to the effect that: "**Before I retire, I will have sentenced men to over one million years in the State Penitentiary**".[83]

83. On November 10, 1995, Akers appeared at the Fayette (Kentucky) Circuit Court for arraignment on the indicted charges and Overstreet **capriciously increased Akers' bail to a $52,000 Property Bond** [see Exhibit "QQ" hereto and CP#1, C. Perkins/R. Overstreet, 11/10/95, 13:13:50, et seq.];[84] Akers entered a plea of "not guilty"; posted the additional bail; and then promptly returned to Nashville, Tennessee, pending further hearings.

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[83] See also: Lexington Herald/Leader newspaper articles [Collective Exhibit "RR" hereto] and Bishop's "Letter to the Editor" [Exhibit "SS" hereto] on behalf of Overstreet's re-election in November of 1999.

[84] See: **U.S. Const. Amend. 5** [supra, page 7 hereof], i.e., "No person shall ...**be deprived of**...**liberty**, or property, **without due process of law**" (emph. added); **U.S. Const. Amend 8** [id., page 10 hereof], i.e., "**Excessive bail** shall not be required..." (emphasis added); **U.S. Const. Amend. 14** [id.], i.e., "**All persons** born or naturalized in the United States, and subject to the jurisdiction thereof, are **citizens of the United States** and of the **State wherein they reside**. **No State** shall make or enforce **any law** which shall abridge the privileges or immunities of citizens of the United States; **nor shall any state deprive any person of life, liberty, or property, without due process of law**; nor deny any **person within its jurisdiction equal protection of the laws**" (emphasis added); **Ky Const § 2. Absolute and arbitrary power denied** [supra, page 26 hereof], i.e., "**Absolute and arbitrary power over the lives, liberty and property of freemen exists nowehere in a republic, not even in the largest majority**" (emph. added); **Ky Const § 17. Excessive bail or fine, or cruel punishment, prohibited** [id., page 27 hereof], i.e., "**Excessive bail shall not be required**..." (emphasis added); **Kentucky Criminal Practice § 11.09 Modification or revocation of bail**, i.e., "In

Marcum v Broughton, the Court held that after bond..." (continued, page 104 hereof)

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84. On January 3, 1996, Red Corn filed her "Notice of Evidence Pursuant to KRE 404 (b)" which listed alleged specific incidents **and even broad categories of alleged misconduct of/by Akers spanning the entire twenty-six year marriage of Akers and Bishop** [Exhibit "TT" hereto]. Therein items 2.a.(1), (2), (3), (6), (7), (8), and (9) were **completely and unequivocally false; were disputed by even Bishop's own sons**, Wayne and Alan; were **unsupported by any corroborative or supportive evidence**; and, even had they been true, would have been **completely irrelevant to Akers' indicted charges of "First Degree Assault" and "First Degree Stalking"**. Items 2.a.(4),(5), and 3., while containing "elements" of truth, amounted to **gross exaggerations and were, likewise, irrelevent and/or prejudicial if not fraudulent for the purposes intended and used by Bishop and Red Corn.**

85. From January 3, 1996, until and including Akers' first trial on May 20 through 22, 1996, Overstreet "**OVERRULED**" **every single motion filed by Akers' attorneys,** and essentially **ignored** properly raised issues with respect to evidence as to alleged "prior/other bad acts" falling within the limitations of K.R.E. 404(b) [see Exhibit "UU" hereto and hereinafter paragraph 96]

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[84] **Kentucky Criminal Practice § 11.09** (continued from page 103 hereof): "...has been set by the court, the bond may not be increased or revoked without a change in the defendant's status. The Court stated that **increasing the bond without any reason would be an arbitrary action in violation of § 2 of the Constitution of Kentucky**" (emph. added); and **Ky Const § 26** [supra, page 28 hereof], i.e., "To guard against transgression of the high powers we have delegated, We Declare that **every thing in this bill of rights is excepted out of the general powers of government and shall forever remain inviolate; and all laws contrary thereto, or contrary to this Constitution, shall be void**" (emphasis added).

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86. On May 20, 1996, Akers' trial was commenced in the hereinabove Court. **Some of the "irregularities"** of that trial include, **but are not limited to**, the following:

I. Pre-trial Matters: (a) Pursuant to the Akers' son, Wayne, having expressed his dismay of Bishop's hereinabove acts and/or schemes, Red Corn attempted to influence and/or obstruct the anticipated testimony of A. Wayne Akers by telephoning him during the week of May 10, 1994, and making a statement to the effect that: **"[h]ow dare you talk to your mother like that!"**[85]

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[85] See: **TITLE 18 U.S.C. § 1512. Tampering with a witness, victim, or an informant** [supra, page 14 hereof], i.e., "(b) Whoever knowingly uses **intimidation...or corruptly persuades** another person, **or attempts to do so**, or engages in misleading conduct toward another person, **with intent** to-- (1) **influence**, delay, **or prevent the testimony of any person** in an official proceeding; (2) **cause or induce any person to**-- (A) withhold testimony...from an official proceeding; ...shall be fined under this title or imprisoned not more than ten years, or both" (emphasis added); **TITLE 42 U.S.C. § 1983. Civil action for deprivation of rights** [id., page 16 hereof], i.e., "**Every person** who, **under color of any statute**, ordinance, custom, or usage, **of any State** or Territory or the District of Columbia, **subjects, or causes to be subjected, any citizen of the United States** or other person within the jurisdiction thereof **to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws**, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress" (emphasis added); **TITLE 42 U.S.C. § 1985. Conspiracy to interfere with civil rights**: [id.], i.e., "(2) If **two or more persons in any State** or Territory or the District of Columbia **conspire** to...influence the verdict, presentment, or indictment of any grand or petit jury..., or **if two or more persons conspire** for the purpose of impeding, hindering, obstructing, or defeating, **in any manner, the due course of justice in any State or Territory, with the intent to deprive any citizen...equal protection of the laws**, or to injure him or his property for lawfully enforcing, or **attempting to enforce**, the right of any person, or class of persons, to the equal protection of the laws; (3) ...**in any case of conspiracy** set forth in this section, **if one or more persons** engaged therein **do, or cause to be done, any act in furtherance of the object of such conspiracy**, whereby another is injured in his person **or property, or deprived of having and exercising any right or privilege** of a citizen of the United States, the party so injured or deprived may have an action for the recovery of damages occasioned by such injury or deprivation, against one or more of the conspirators" (emphasis added).

II. Jury Selection Phase: (a) Five jurors came forward and admitted that they, or someone closely associated with them, had been the "victim" of "domestic violence or abuse" and the court refused to excuse those jurors. (b) Red Corn "pre-prejudiced" the jurors by, ***inter alia***, (i) erroneously and intentionally misleading them as to the essential elements of "Assault in the First Degree" [TT#1, L. Red Corn, 05/20/96, 09:57:10 & 09:59:45]; and (ii) erroneously instructed the jurors with respect to the essential elements of "Stalking in the First Degree" [TT#1, L. Red Corn, 05/20/96, 11:00:30].

III. Jury Voir Dire Phase: (a) Sanctioned by Overstreet, Red Corn "tampered with the jur[ors]"[86] by instructing them to the effect that: "If any of you believe that the courts should not get involved in marital relationships, then please excuse yourselves now." [TT#1, L. Red Corn, 05/20/96, 11:01:00]

IV. OPENING ARGUMENTS: (a) Red Corn intentionally misled and/or and/or "tampered with [and/or confused] the jury"[86] with respect to the charges for which Akers was on trial, i.e., "First Degree Assault" (for discrete acts on, or about May 4, 1994), and "First Degree Stalking" (for an alleged course of conduct from...

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[86] **See**: **"Tampering with jury"**: "...The act of attempting to influence a juror corruptly by...persuasions, entreaties, ...or **any other means except the production of evidence in open court**. *See e.g.* 18 U.S.C.A § 1503, 1504." [Black's Law Dictionary, Abridged Sixth Edition, 8th reprint-1988 (emphasis added)]. **See also**: **"Tamper"** (footnote 9 hereof): "To meddle so as to alter a thing, especially to make illegal, **corrupting or perverting changes**" [id.].

November of 1994 until August of 1995), by propounding alleged acts spanning the entire twenty-six year marriage of

Akers and Bishop and, even if those allegations had been true, such would have had no relevance whatsoever to Akers' indicted charges.

V. PROSECUTION'S CASE-IN-CHIEF: (a) Red Corn (with assistance and sanction of Overstreet) successfully deployed numerous "evidentiary harpoons" of erroneous, derogatory, irrelevant and inadmissible testimony not included in her "Notice pursuant to K.R.E. 404(b)" [Exhibit "TT" hereto] including, **but not limited to** insinuations that Akers burned down a home he was building in 1988[87] [TT#1, 05/20/96, C. Patrick, 17:36:35 et seq. & 19:07:40]; (b) Red Corn introduced into evidence, and played for the jury, audio-taped testimony of Akers at that hearing/trial in herein-

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[87] See: Paragraph 18, Page 5, Exhibit "B" hereto; Paragraph 5, Page 2, Exhibit "D" hereto; Paragraph 7, Page 2, Exhibit "E" hereto; **K.R.E. 103. RULINGS ON EVIDENCE** [supra, page 38 hereof], i.e., "**(c) Hearing of Jury. In jury cases, proceedings shall be conducted, to the extent practicable, so as to prevent inadmissible evidence from being suggested to the jury by any means, such as making statements or offers of proof or asking questions in the hearing of the jury.**" (emphasis added); **K.R.E. 107. MISCELLANEOUS PROVISIONS** [id., page 39 hereof] "**(b) Effective date**: The Kentucky Rules of Evidence shall take effect on the first day of July, 1992. **They shall apply to all** civil and **criminal actions and proceedings** originally brought on for trial after that date and to pretrial motions or matters originally presented to the court for decision upon or after that date if a determination of such motions or matters requires application of evidence principles; provided, however, that **no evidence shall be admitted against a criminal defendant in proof of a crime committed prior to July 1, 1992**, unless that evidence would have been admissible under evidence principle in existence prior to adoption of these rules." (emphasis added); **K.R.E. 404. CHARACTER EVIDENCE AND EVIDENCE OF OTHER CRIMES**: [id., page 40 hereof], i.e., "**(a) Character Evidence Generally**: Evidence of a persons character is **not admissible** for the purpose of proving action in conformity therewith on a particular occasion, except: (1) *Character of accused*: Evidence of a pertinent trait of character or of the..." (continued, page 111 hereof)

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above paragraph E-38 and which was clearly inadmissible pursuant to **K.R.S. 403.780** [supra, page 31 hereof], i.e.,

"Testimony not admissible in criminal proceeding: Testimony offered by an adverse party in a hearing held pursuant to the provisions of [KRS] 403.745 **shall not be admissible in any criminal proceeding involving the same parties**" (emphasis added) [see TT#1, L. Red Corn, 05/20/00, 11:41:57]. (c) Bishop, under the encouragement, guidance, and sanction of Red Corn and Overstreet, respectively, fraudulently[88] testified with respect to matters including, **but not limited to**: (i) facts with respect to hereinabove paragraph E-31, to the effect that Akers had "pulled [her] out of the bed by the hair of [her] head and drug [her] out in the hallway",

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[87] **K.R.E. 404** (continued from page 110 hereof): "... general moral character **offered by the accused**...; (2) *Character of Victim Generally*: Evidence of a pertinent trait of character of the victim of the crime **offered by the accused**...; **(b) Other Crimes, Wrongs, or Acts**. Evidence of other crimes, wrongs, or acts **is not admissible** to prove the character of a person in order to show action in conformity therewith. ...**(c) Notice Requirement**. In a criminal case, if the prosecution intends to introduce evidence pursuant to subdivision (b) of this rule as a part of its case in chief, it **shall give reasonable pretrial notice to the defendant** of its **intention** to offer such evidence. **Upon failure of the prosecution to give such notice the court may** exclude the evidence offered under subdivision (b) or for cause shown may excuse the failure to give such notice and **grant the defendant a continuance or such other remedy as necessary to avoid unfair prejudice caused by such failure**." (emphasis added)

[88] **See**: "**'Fraud' defined**" [footnote [7], page 13 hereof], i.e., "A generic term, embracing all multifarious means which human ingenuity can devise, ...**to get advantage over another by false suggestions** or by suppression of the truth...; It comprises **all acts, omissions, and concealments involving a breach of a legal or equitable duty and resulting in damage to another**. And includes **anything calculated to deceive**, whether it be a single act **or combination of circumstances**, whether the suppression of truth or the **suggestion of what is false, whether it be direct falsehood or by innuendo**, by speech or **by silence**, by word of mouth, **or by look or gesture**." [Black's Law Dictionary, Abridged Sixth Edition, 8th reprint-1988]. **See also**: "**Tampering with jury**" [footnote [8], id.]: "The act of..." (continued, page 112 hereof)

and "struck her "repeatedly in the face with his fist"; (ii) allegations that Akers had continued to contact her and threaten her during the summer of 1994 **after the effective date of the "Domestic Violence Order" in hereinabove paragraph E-38** [TT#1, C. Patrick, 05/20/96, 16:28:30 et seq.]; (iii) denied that she had ever experienced problems with her neck and/or back prior to May 4, 1994 [TT#1, 05/20/96, C. Patrick, 16:36:00, et seq.]; (iv) introduced into evidence and **showed to the a jury retouched**...

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[88] "**Tampering with jury**" (continued from page 111 hereof): "...attempting to influence a juror corruptly by...persuasions, entreaties, ...or **any other means** except the production of evidence in open court. *See e.g.* 18 U.S.C.A § 1503, 1504." [Black's Law Dictionary, Abridged Sixth Edition, 8th reprint-1988]; **TITLE 42 U.S.C. § 1985. Conspiracy to interfere with civil rights**: [supra, page 16 hereof], i.e., "(2) If **two or more persons in any State** or Territory or the District of Columbia **conspire to ...influence the verdict**, presentment, or indictment **of any** grand or **petit jury**..., **or if two or more persons conspire for the purpose of impeding, hindering, obstructing, or defeating, in any manner, the due course of justice in any State or Territory, with the intent to deprive any citizen...equal protection of the laws,** or to injure him or his property for lawfully enforcing, or **attempting to enforce**, the right of **any person**...to the equal protection of the laws; (3) ...**in any case of conspiracy** set forth in this section, **if one or more persons** engaged therein **do, or cause to be done, any act in furtherance of the object of such conspiracy**, whereby another is injured in his person **or property, or deprived of having and exercising any right or privilege** of a citizen of the United States, the party so injured or deprived may have an action for the recovery of damages occasioned by such injury or deprivation, against one or more of the conspirators" (emphasis added); **K.R.S. 523.020 Perjury in the first degree** [supra, page 38 hereof], i.e., "(1) A person is guilty of perjury in the first degree when he makes a material false statement, which he does not believe, in any official proceeding under oath required or authorized by law; (3) Perjury in the first degree is a Class D felony." (emphasis added); and/or **K.R.S. 523.050. Inconsistent statements** [id.], i.e., "(1) When a person has made **inconsistent statements under oath**, both having been made within the period of the statute of limitations, the prosecution may proceed by setting forth the inconsistent statements in a single charge alleging in the alternative that **one or the other was not believed** by the defendant. In such case **it shall not be necessary** for the prosecution **to prove which statement was false but only that one or the other was false** and not believed by the defendant to be true." (emphasis added).

photograph fraudulently depicting an injury to Bishop from an incident which occurred on August 10, 1989 [TT#1, 05/20/96, C. Patrick, 17:32:15 et seq.]; and (v) introduced into evidence and **showed the jury a photograph of Bishop (taken in 1969 and damaged thereafter by someone other that Akers)** which Bishop alleged was the basis of her fear of Akers' during the time of the alleged "stalking" [see TT#1, 05/20/96, C. Patrick, 16:56:15 et seq.][89]; (d) Fleming, under the encouragement, guidance, and/or sanction of Bishop, Red Corn, and Overstreet, respectively, fraudulently[88] testified with respect to matters including, **but not limited to**: (i) the demeanor and/or physical condition of Bishop on the morning of May 5, 1994; (ii) Bishop's "fainting" soon thereafter as the result of the events of May 4/5, 1994 (see hereinabove paragraph E-15(c)); and (iii) that there was a "big hole in the wall" at the Akers' home as the purported result of Akers' "throwing [Bishop] through [same]" on May 4/

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[89] See: **TITLE 18 U.S.C. § 2. Principals** [supra, page 11 hereof], i.e., "(a) Whoever **commits** an offense against the United States or **aids, abets, counsels,** commands, **induces, or procures** its commission, **is punishable as a principal**. (b) Whoever willfully causes an act to be done which if directly performed by him or another would be an offense against the United States, is punishable as a principal." (emph. added); **TITLE 18 U.S.C. § 3. Accessory after the fact** [id.], i.e., "Whoever, knowing that an offense against the United States has been committed, **receives, relieves,** comforts **or assists** the offender in order to hinder or prevent his apprehension, trial or punishment, **is an accessory after the fact**." (emphasis added); **TITLE 18 U.S.C. § 1503. Influencing or injuring officer or juror generally** [id., page 13 hereof], i.e., "(a) Whoever **corruptly...endeavors to influence or impede any grand or petit juror,** or officer in or of any court of the United States, ...**or endeavors to influence, obstruct, or impede, the due administration of justice,** shall be punished as provided in subsection (b)." (emphasis added); **TITLE 18 U.S.C. § 1512. Tampering with a witness, victim, or an informant**: [id., page 14 hereof], i.e., "(b) Whoever knowingly uses **intimidation...or corruptly pursuades** another person, ..." (continued, page 114 hereof)

5, 1994.[89] (e) Rushing, under the encouragement, guidance, and/or sanction of Bishop, Red Corn, and Overstreet, respectively, fraudulently[88] testified with respect to matters

including, **but not limited to**: (i) testimony that he had never seen Akers prior to July, 1994; (ii) that Rushing had received in excess of "fifty [tele]phone calls from Akers during the months of May, June, July, and August of 1994 [see TT#1, A. Rushing, 05/20/96, 14:36:30]; and (iii) that Rushing had never discussed with Bishop that she might be "fired unless she [got] her personal life in order".[89]

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[89] **TITLE 18 U.S.C. § 1503** (continued from page 113 hereof): "... **or attempts to do so**, or engages in misleading conduct toward another person, **with intent** to-- (1) **influence**, delay, **or prevent the testimony of any person** in an official proceeding; (2) **cause or induce any person to**-- (B) **alter**, destroy, **mutilate**, or conceal **an object with intent to impair the object's integrity** or availability in an official proceeding; shall be fined under this title or imprisoned not more than ten years, or both." (emphasis added); **TITLE 42 U.S.C. § 1983. Civil action for deprivation of rights** [id., page 16 hereof], i.e., "**Every person** who, **under color of any statute**, ordinance, custom, or usage, **of any State** or Territory or the District of Columbia, **subjects, or causes to be subjected, any citizen of the United States** or other person within the jurisdiction thereof **to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws**, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress" (emphasis added); and **TITLE 42 U.S.C. § 1985. Conspiracy to interfere with civil rights**: [id.], i.e., "(2) If **two or more persons in any State** or Territory or the District of Columbia **conspire** to...influence the verdict, presentment, or indictment of any grand or petit jury..., or **if two or more persons conspire** for the purpose of impeding, hindering, obstructing, or defeating, **in any manner, the due course of justice in any State or Territory, with the intent to deprive any citizen...equal protection of the laws,** or to injure him or his property for lawfully enforcing, or **attempting to enforce**, the right of any person, or class of persons, to the equal protection of the laws; (3) ...**in any case of conspiracy** set forth in this section, **if one or more persons** engaged therein **do, or cause to be done, any act in furtherance of the object of such conspiracy**, whereby another is injured in his person **or property, or deprived of having and exercising any right or privilege** of a citizen of the United States, the party so injured or deprived may have an action for the recovery of damages occasioned by such injury or deprivation, against one or more of the conspirators" (emphasis added).

VI. DEFENSE PHASE: (a) Overstreet & Red Corn conspired to, and **effectively barred** the testimony of eyewitness, Alan P.

Akers, with respect to evidence **clearly admissible under K.R.E. 803** [see TT#2, A. Akers, 05/21/96, 11:36:55 et seq.] despite having already allowed similar and **far less admissible testimony** of certain preceding prosecution witnesses. (b) Red Corn, under the misinformation of Bishop, and sanction and encouragement of Overstreet, intentionally confused the jury with respect to the charges for which Akers was on trial and, thereby, "tampered with the jury" by making competely fraudulent insinuations that: (i) **at some point in his life**, Akers had threatened his father with a knife; (ii) thrown a flashlight **at someone**; and (iii) **in some manner**, **had something** to do with the breaking of Akers' mother's arm [TT#2, W. E. Akers/L. Red Corn, 05/21/96, 14:27:40, et seq.].[90] (c) Overstreet and Red Corn would not allow the testimony of Akers' fiance', Deborah L. Harvil, with respect to Akers' emotional state during period of time period of alleged "stalking".[91] [TT#3, D. Harvil, 05/21/96, 15:47:45]

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[90] See: "Fraud" defined: "A **false representation of a matter of fact**, whether by words or by conduct, **by false or misleading allegations**...""A generic term, embracing all multifarious means which human ingenuity can devise, ...to get advantage over another **by false suggestions** or by suppression of the truth...; As distinguished from negligence, **it is always positive, intentional**. It comprises **all acts, omissions, and concealments** involving a breach of a legal **or equitable**..." (continued, page 116 hereof)

[91] **K.R.E. 401. DEFINITION OF "RELEVANT EVIDENCE"**: [supra, page 40 hereof], i.e., "**Relevant evidence**" means evidence having **any tendency** to make the existence of **any fact that is of consequence to the determination of the action more probable or less probable** than it would be without the evidence." (emph. added); **K.R.E. 402** [id.], i.e., "**All relevant evidence is admissible**, except as otherwise provided by..." (continued, page 117 hereof)

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[90] "Fraud" defined (continued from page 115 hereof): "...**duty and resulting in damage to another**. And includes **anything calculated to deceive**, whether it be a single act **or combination of circumstances**, whether the suppression of truth **or the suggestion of what is false**, whether it be **direct falsehood or by inuendo**, by speach or by silence, **by word of mouth, or by look or gesture**.

[Black's Law Dictionary, Abridged Sixth Edition, 8th reprint-1988]. **See also**: **TITLE 18 U.S.C. § 1503** [supra, page 13 hereof], i.e., "**Influencing or injuring officer or juror generally**: (a) Whoever **corruptly endeavors to influence or impede any grand or petit juror**, or officer in or of any court of the United States, ...**or endeavors to influence, obstruct, or impede, the due administration of justice**, shall be punished as provided in subsection (b)." (emphasis added); **TITLE 18 U.S.C. § 1961** [id., page 14 hereof], i.e., "**Definitions**: (1) "racketeering activity" means (B) any act which is indict-able under any of the following provisions of title 18, United States Code: ...**section 1503** (relating to obstruction of justice); et seq." (emph. added); **TITLE 42 U.S.C. § 1985** [id., page 16 hereof], i.e., "**Conspiracy to interfere with civil rights**: (2) If **two or more persons in any State** or Territory or the District of Columbia **conspire** to...influence the verdict, presentment, or indictment of any grand or petit jury..., or **if two or more persons conspire** for the purpose of impeding, hindering, obstructing, or defeating, **in any manner, the due course of justice in any State or Territory, with the intent to deprive any citizen ...equal protection of the laws**, or to injure him or his property for lawfully enforcing, or **attempting to enforce**, the right of any person, mr class of persons, to the equal protection of the laws; (3)...**in any case of conspiracy** set forth in this section, **if one or more persons** engaged therein **do, or cause to be done, any act in furtherance of the object of such conspiracy**, whereby another is injured in his person **or property, or deprived of having and exercising any right or privilege** of a citizen of the United States, the party so injured or deprived may have an action for the recovery of damages occasioned by such injury or deprivation, against one or more of the conspirators." (emphasis added); **K.R.E. 103. RULINGS ON EVIDENCE** [supra, page 39 hereof], i.e., "(c) **Hearing of Jury**. **In jury cases, proceedings shall be conducted**, to the extent practicable, **so as to prevent inadmissible evidence from being suggested to the jury by any means, such as making statements** or offers of proof or asking questions **in the hearing of the jury**." (emph. added); **K.R.E. 404. CHARACTER EVIDENCE AND EVIDENCE OF OTHER CRIMES**: "**(a) Character Evidence Generally** [id., page 40 hereof], i.e., **Evidence of a persons character is not admissible** for the purpose of proving action in conformity therewith on a particular occasion, **except**: (1) *Character of accused*: Evidence of a pertinent trait of character or of the general moral character **offered by the accused**...; **(b) Other Crimes, Wrongs, or Acts**. Evidence of other crimes, wrongs, or acts **is not admissible** to prove the character of a person in order to show action in conformity therewith. ...**(c) Notice Requirement**. In a criminal case, if the prosecution intends to introduce evidence pursuant to subdi-vision (b) of this rule as a part of its case in chief, it **shall give reasonable pretrial notice to the defendant** of its **intention** to offer such evidence. **Upon failure of the prosecution to give such notice the court may** exclude the evidence offered under subdivision (b) or for cause shown may excuse the failure to give such notice and **grant the defendant a continuance or such other remedy as necessary to avoid**..." (continued, page 118 hereof)

[91] (continued from page 115 hereof): "...the Constitution of the United States and the Commonwealth of Kentucky, by the acts of the General Assembly of the Commonwealth of Kentucky, by these rules, or by other rules adopted by the Supreme Court of Kentucky." (emphasis added); **K.R.E. 405. METHODS OF PROVING CHARACTER** [id.], i.e., "**(a) Reputation or opinion.** In all cases in which evidence or a trait of character of a person is admissible, proof **may be made** by testimony as to general reputation in the community or by testimony **in the form of opinion**. **(c) Specific Instances of Conduct**. In cases in which character of a personis an [asserted] element of a charge, claim, or defense, **proof may also be made of specific incidents in that person's conduct**." (emph. added). **See also**: Hereinabove footnote [89] i.e., **"Fraud" defined**: "A false representation of a matter of fact, whether by words or by conduct, by false or misleading allegations..." "A generic term, embracing all multifarious means which human ingenuity can devise, ...to get advantage over another by false suggestions or by **suppression of the truth**...; As distinguished from negligence, **it is always positive, intentional**. It comprises **all acts, omissions, and concealments** involving a breach of a legal **or equitable duty and resulting in damage to another**. And includes **anything calculated to deceive**, whether it be a single act **or combination of circumstances, whether the suppression of truth** or the suggestion of what is false, whether it be direct falsehood or by innuendo, by speech or by silence, by word of mouth, or by look or gesture. [Black's Law Dictionary, Abridged Sixth Edition, 8th reprint-1988]; **TITLE 18 U.S.C. § 1503** [supra, page 13 hereof], i.e., "**Influencing or injuring officer or juror generally**: (a) Whoever **corruptly...endeavors to influence or impede any grand or petit juror**, or officer in or of any court of the United States, ...**or endeavors to influence, obstruct, or impede, the due administration of justice**, shall be punished as provided in subsection (b)." (emphasis added);

TITLE 18 U.S.C. § 1961 [id., page 14 hereof], i.e., "**Definitions**: (1) "racketeering activity" means (B) any act which is indictable under any of the following provisions of title 18, United States Code: ...**section 1503** (relating to obstruction of justice); et seq." (emphasis added); **TITLE 42 U.S.C. § 1985** [id., page 16 hereof], i.e., "**Conspiracy to interfere with civil rights**: (2) If **two or more persons in any State** or Territory or the District of Columbia **conspire** to...influence the verdict, presentment, or indictment of any grand or petit jury..., or **if two or more persons conspire** for the purpose of impeding, hindering, obstructing, or defeating, **in any manner, the due course of justice in any State or Territory, with the intent to deprive any citizen...equal protection of the laws,** or to injure him or his property for lawfully enforcing, or **attempting to enforce**, the right of any person, or class of persons, to the equal protection of the laws; (3) ...**in any case of conspiracy** set forth in this section, **if one or more persons** engaged therein **do, or cause to be done, any act in furtherance of the object of such conspiracy**, whereby another is injured in his person **or property, or deprived of having and exercising any right or privilege** of a citizen of the United States, the party so injured or deprived may have an action for the recovery of damages occasioned by such injury or deprivation, against one or more of the conspirators." (emphasis added); **K.R.E. 1101. APPLICABILITY OF RULES** [id.], i.e., "**(a) Courts**. These rules apply to

all the courts of this Commonwealth in the actions, cases, and proceedings and to the extent hereinafter set forth. ...**(c) Rules on Privileges**. The rules with respect to **privileges apply at <u>all</u>**..." (continued, page 118 hereof)

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<u>VII. CLOSING ARGUMENTS</u>: (a) In her "closing arguments", Red Corn further inflamed the jury by **<u>emotionally asserting</u>** that: "**[Akers] could have driven up that interstate and killed someone!**"[91]

<u>VIII. INSTRUCTIONS TO JURY</u>: (a) Overstreet knowingly, and intentionally, "tampered with the jury" by providing them with erroneous and misleading "definitions" with respect to, ***inter alia***, "dangerous instrument", "wantonly", & "recklessly" [TT#3,

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[90] **K.R.E. 404** (continued from page 116 hereof): "...**unfair prejudice caused by such failure**." (emph. added); **K.R.E. 602. LACK OF PERSONAL KNOWLEGE** [id., page 41 hereof], i.e., "A witness may not testify to a matter unless evidence is introduced to support a finding that the witness has **personal knowlege** of the matter." (emphasis added); **K.R.E. 1101. APPLICABILITY OF RULES** [id.], i.e., "**(a) Courts**. These rules apply to **all the courts of this Commonwealth in the actions, cases, and proceedings** and to the extent hereinafter set forth. ...**(c) Rules on Privileges**. The rules with respect to **privileges apply at <u>all stages</u> of all actions, cases, and proceedings**." (emphasis added); **<u>in conjunction with</u> <u>U.S. Const. Amend. 5</u>** [supra, page 7 hereof], i.e, "No person shall...**be deprived of**...**liberty**, or property, **without due process of law.**" (emphasis added); **<u>and</u> <u>U.S. Const. Amend. 14</u>** [id., page 10 hereof], i.e., "**No State** shall...deprive **<u>any person</u> of life, liberty, or property, without <u>due process of law</u>** (emphasis added)

[91] (continued from page 118 hereof): "...**<u>stages</u> of all actions, cases, and proceedings**." (emphasis added); **<u>in conjunction with</u> <u>U.S. Const. Amend. 5</u>** [supra, page 7 hereof], i.e, "No person shall...**be deprived of**...**liberty**, or property, **without due process of law.**" (emphasis added); **<u>and</u> <u>U.S. Const. Amend. 14</u>** [id., page 10 hereof], i.e., "**No State** shall make or enforce **any law** which shall abridge the privileges or immunities of citizens of the United States; **nor shall <u>any state</u> deprive any person of life, liberty, or property, without <u>due process of law</u>**; nor deny any **person within its jurisdiction <u>equal protection of the laws</u>**." (emphasis added)

[92] There can be no question that America's "criminal law" was intended to be

"punitive" or, in some cases, "injunctive" but that it was **never intended** to be "speculative" or "inflammatory". Moreover, there are **in excess of four million persons in the State of Tennessee** and, in view of those facts within hereinabove paragraphs E-31 through E-34, E-36 through E-47, E-50, & E-56 through E-63, **all such persons would have been more likely** to "have driven up that interstate and killed someone" than Akers was inclined to.

R. Overstreet, 05/21/96, 09:12:45, et seq.; **See also**, TT#3, L. Red Corn, 05/22/96, 10:06:30, et seq.]; and (b) Red Corn and Overstreet refused to allow a jury instruction with respect to "E.E.D." (Extreme Emotional Disturbance) as a mitigating factor for Akers' alleged "Assault" or "Stalking" of Bishop.[93]

IX. JURY DELIBERATION PHASE: (a) On the final day of Akers' trial, and just prior to going into deliberations, a juror was seen with that day's issue of the Lexington Herald/Leader, which contained a "front page" report **graphically depicting** events of the previous day, wherein a Lexington woman was murdered by her boy-friend following a "domestic fight". [Exhibit "VV" hereto; **see also**: Item 4, Exhibit "F" hereto; and TT#3, L. Red Corn, 05/22/96, 10:16:00, et seq.]

87. On May 22, 1996, Akers was convicted in the Fayette Circuit Court on one (1) count each of "First Degree Assault" and "First Degree Stalking", as indicted, and the jury then recommended sentences of ten (10) years and five (5) years, respectively, to be served consecutively, for a total sentence of fifteen (15) years imprisonment [see Exhibit "WW" hereto].

88. Upon Akers' convictions resulting from hereinabove paragraphs E-31, E-32, E-35, E-36, E-38, E-40 thru E-42, E-48, ...

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[93] See: "**Due process of law**" defined [footnote [5], page 8 hereof], i.e., "...**The concept of 'due process of law' as it is embodied in the Fifth Amendment demands that a law shall not be unreasonable, arbitrary, or capricious**..." U.S. v. Smith, D.C. Iowa, 249 F.Supp. 515, 516.; and "...**the verdict must be supported by the evidence presented.**" [Black's Law Dictionary, Sixth Edition, 12th Reprint-1998 (emphasis added)]

E-51, E-54, E-56 thru E-68, E-70 thru E-79, & E- 81 thru E-87, Red Corn commented to Akers' defense attorney and previous civil attorneys about Akers to the effect that: "**That son of a bitch! I'd have gotten him life if I could have!**"

89. On June 21, 1996, Akers appeared before Overstreet for "Final Sentencing"; Akers' timely-filed "Motion for New Trial and Motion for Judgement Notwithstanding the Verdict" [see Exhibit "XX" hereto], "Motion for Shock Probation", and "Motion to Reinstate the Pre-trial Bond" of Akers were "**OVERRULED**"; and despite numerous mitigating letters having been filed with the Court [see collective Exhibit "YY" hereto and Overstreet's acklnowledgement thereof (CP#1, 06/21/96, R. Overstreet, 06/21/96, 14:52:02, et seq.)], Overstreet made the following statement: "**...I know that by putting you in the penetintiary, I can protect your ex-wife, your current girlfriend[94] or any other female that in the future you may come in contact with.**"

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[94] It is clear that Overstreet does not understand, **or refuses to accept**, the limits of her jurisdiction. **Not only has she usurped Akers' rights under the constitutions of the United States of America and the State of Tennessee [or the jurisdiction of the State of Tennessee** with respect to acts committed **within the State of Tennessee** and were, **at worst**, a misdemeanor under Tennessee law (see T.C.A. 39-117-308, supra, page 21 hereof)], she now is attempting to confer jurisdiction over all the constitutional rights of **Harvil**, a **citizen** and resident **of the United States of America and the State of Tennessee** therein, **and would not even be within the state of Kentucky** but for exercising of her rights as **secured by the United States Constitution**. Overstreet further asserted that: "...due to [Akers'] emotional and mental condition, ...**alcoholism, [and]...the violent...and deliberate nature of [Akers'] crime**..., [that] the Court is of the opinion that imprisonment is necessary for the protection of the public because there is a substantial risk that [Akers] will commit another crime during any period of conditional discharge..." [Exhibit "ZZ", page 2, lines 4 through 14]. **See also** (in reality): Exhibits "B" through "K", "T", "V", [collective Exhibit] "YY", & "TTT" hereto.

Overstreet then imposed her "Final Judgement [&] Sentence of Imprisonment" "at hard labor."[95] [see Exhibit "ZZ" hereto, and which was actually signed by (Chief Fayette) Circuit Judge Mary C. Noble on June 27, 1996, in Overstreet's absence]

90. On November 5, 1996, Akers' attorney on appeal, David A. Tapp (hereinafter "Tapp"), filed his "Motion for Bail on Appeal", citing substantial grounds warranting Akers' release on bail during the pendancy of appeal including, but not limited to: (a) Overstreet's improper admission of highly-prejudicial, irrelevant, and inadmissible evidence as to alleged/uncharged "prior/other bad acts" in violation of K.R.E. 404(b) & (c) as further set out in **Bell v. Commonwealth, Ky., 875 S.W.2d 882, 890, (1994)**; (b) Overstreet's refusal to admonish the jury with respect thereto as required by K.R.E. 105 [supra, page 39 hereof]; (c) Akers compliance with all pre-trial conditions of release [Exhibit "AAA" hereto]; and (d) That said "Motion"

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[95] See **ARTICLE IV-SECTION 2** [supra, page 6 hereof], i.e., "[1.] The citizens of each state shall be entitled to **all privileges and immunities** of citizens in the several states" (emph. added); **U.S. Const. Amend. 8** [id., page 10 hereof], i.e., "Excessive bail shall not be required, ...**nor...unusual punishments inflicted**" (emph. added); **U.S. Const. Amend. 13** [id.], i.e., "Neither slavery nor **involuntary servitude, except as punishment for crime whereof the party shall have been duly convicted**, shall exist within the United States or **any place** subject to their jurisdiction" (emph. added); **U.S. Const. Amend. 14** [id., page 10 hereof], i.e., "**All persons** born or naturalized in the United States, and subject to the jurisdiction thereof, are **citizens of the United States** and of the **State wherein they reside**. **No State** shall make or enforce **any law** which shall abridge the privileges or immunities of citizens of the United States; **nor shall any state deprive any person of life, liberty, or property, without due process of law**; nor deny any **person within its jurisdiction equal protection of the laws**" (emphasis added); and, ***inter alia***, herein paragraphs E-82 through E-86, E-90, E-94 through E-99, E-104, E-107 through E-114, & E-121 through E-123.

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was "**OVERRULED**" by Overstreet on, or about, November 21, 1996, stating, ***inter alia***, that: (e) "[Akers] would be **a threat to society, regardless of his behavior prior to the conviction**." [see Exhibit "BBB" hereto][96] (emphasis added)

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[96] Again, see (in reality): Herein Exhibits "B" through "K", "T", "V", [collective Exhibit] "YY", & "TTT" hereto for contrasting view . See also: **Ky Const § 2. Absolute and arbitrary power denied** [supra, page 26 hereof], i.e., "**Absolute and arbitrary power over** the lives, liberty and property of **freemen exists nowehere in a republic, not even in the largest majority**" (emphasis added); "**Ky Const § 16** [page 27 hereof], i.e., "**Right to bail; habeas corpus**: "**All prisoners shall be bailable** by sufficient securities, unless for capital offenses when the proof is evident or the presumption is great" (emphasis added); **Ky Const § 26** [supra, page 28 hereof], i.e., "To guard against transgression of the high powers we have delegated, We Declare that **every thing in this bill of rights is excepted out of the general powers of government and shall forever remain inviolate; and all laws contrary thereto, or contrary to this Constitution, shall be void**" (emphasis added).

ARTICLE IV-SECTION 2, U. S. Constitution [supra, page 6 hereof], i.e., "[1.] The citizens of each state shall be entitled to **all privileges and immunities** of citizens in the several states" (emphasis added); **U.S. Const. Amend. 14** [supra, pages 10 & 11 hereof], i.e., "**All persons** born or naturalized in the United States, and subject to the jurisdiction thereof, are **citizens of the United States** and of the **State wherein they reside**. ...**nor shall any state deprive any person of life, liberty, or property, without due process of law**; nor deny any **person within its jurisdiction equal protection of the laws.**" (emph. added); **Commonwealth v. Hardin, S.W.2d 498 (1958)**, i.e., "What is the purpose of an appeal in any criminal case? It is to avoid the consequences of conviction. So it is with this appeal. It differs from other appeals, only as to grounds presented for reversal and the manner of presentation, not in purpose. **It is therefore the opinion of this Court that the defendant was entitled to bond pending appeal and the law is so certified**." (emphasis added); Hereinabove paragraphs E-12, E-82 (w/corresponding footnote [82]), E-83, E-85, E-86.II, III, V(a), (c) thru (e), VI, & VIII, E-89; Hereinafter paragraphs E-92 thru E-94, E-96, E-97, E-99 thru E-104, E-106 thru E-108, E-110 thru E-113, & E-121 thru E-123; **TITLE 42 U.S.C. § 1983. Civil action for deprivation of rights** [supra, page 16 hereof], i.e., "**Every person** who, **under color of any statute**, ordinance, custom, or usage, **of any State** or Territory or the District of Columbia, **subjects, or causes to be subjected, any citizen of the United States** or other person within the jurisdiction thereof **to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws**, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress" (emph. added); and **TITLE 42 U.S.C. § 1985. Conspiracy to interfere with civil rights** [id.], i.e., "(2) If **two or more persons in any State** or Territory or the District of Columbia **conspire** to...influence the verdict, presentment, or indictment of any grand or petit jury..." (continued, page 123 hereof)

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91. On March 5, 1997, Assistant Attorney General for the Commonwealth of Kentucky, Cindy G. Swartz (hereinafter "Swartz") performed her "chain-like" function[97] in furtherance of those conspiracies as outlined in hereinabove paragraphs A-2, A-3(f), E-12 thru E-14, E-16, E-24, E-35, E-36, E-38, E-40 thru E-45, E-47 thru E-49, E-50(a), (d), (e), & (f), E-56(a), (b), & (e), E-61, E-64 thru E-67, E-72 thru E-77, E-81 thru E-90, together with all corresponding footnotes thereto, by filing and serving her "Brief for Appellant" [Exhibit "CCC" hereto], and attempting to mislead the Kentucky Court of Appeals in presenting **totally unfounded, unsupported, and/or outright fraudulent** "Counter-statements of Facts" including, **but not limited to**: (a) "After throwing [Bishop] into the wall, Appellant continued to hit her and kick her body" [id., page 1, lines 17 thru 19]; (b) "Four days after the assault, [Bishop] sought medical attention"; (c) "[Bishop's] internal medicine physician testified that prior to the assault, [Bishop] had never complained of neck pain" [id., ...

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[96] (continued from page 122 hereof): "...or **if two or more persons conspire** for the purpose of impeding, hindering, obstructing, or defeating, **in any manner, the due course of justice in any State or Territory, with the intent to deprive any citizen...equal protection of the laws**, or to injure him or his property for lawfully enforcing, or **attempting to enforce**, the right of any person, or class of persons, to the equal protection of the laws; (3) ...**in any case of conspiracy** set forth in this section, **if one or more persons** engaged therein **do, or cause to be done, any act in furtherance of the object of such conspiracy**, whereby another is injured in his person **or property, or deprived of having and exercising any right or privilege** of a citizen of the United States, the party so injured or deprived may have an action for the recovery of damages occasioned by such injury or deprivation, against one or more of the conspirators." (emph. added)

[97] See: **TITLE 42 U.S.C. § 1985. Conspiracy to interfere with civil rights** [supra, page 16 hereof] and footnotes [10, 11, 12] thereto [id, page 17 hereof]

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page 2, lines 4 thru 7]; (d) "Appellant continually violated the [May 10, 1994, "Emergency Protection"] order by constantly making threatening phone calls to the bank. During one phone

call, Appellant told [Bishop] that he was going to go for the throat now" [id., lines 10 thru 12]; (e) "[Akers] called one of [Bishop's] fellow employees a 'bitch' and threatened to harm several others" [id., lines 15 thru 17]; (f) "Dr. Von (sic) stated that [Bishop's] symptoms were due to her trauma from the physical altercation with [Akers]" [id., page 3, lines 7 & 8]; (g) "Essentially, [Akers] stalked [Bishop] throughout most of their marriage." [id., page 7, line 21 thru page 8, line 1]; (g) Dr. Inbeck (sic) testified that based upon the information he received from [Bishop], he felt the pain she was having was due to the altercation with [Akers]." [id., page 14, item 7].[98]

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[98] See: **TITLE 18 U.S.C. § 1503. Influencing or injuring officer or juror generally** [supra, page 13 hereof], i.e., "(a) Whoever **corruptly...endeavors to influence or impede any** grand or petit juror, or **officer in or of any court of the United States**, ...**or endeavors to influence, obstruct, or impede, the due administration of justice**, shall be punished as provided in subsection (b)." (emph. added); **TITLE 42 U.S.C. § 1983. Civil action for deprivation of rights**: [id., page 16 hereof], i.e., "**Every person** who, **under color of any statute**, ordinance, custom, or usage, **of any State** or Territory or the District of Columbia, **subjects, or causes to be subjected, any citizen of the United States** or other person within the jurisdiction thereof **to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws**, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress" (emphasis added); **TITLE 42 U.S.C. § 1985. Conspiracy to interfere with civil rights** [id.] (2) If **two or more persons in any State** or Territory or the District of Columbia **conspire**...for the purpose of impeding, hindering, obstructing, or defeating, **in any manner, the due course of justice in any State or Territory, with the intent to deprive any citizen...equal protection of the laws**, or to injure him or his property for lawfully enforcing, or **attempting to enforce**, the right of any person, or class of persons, to the equal protection of the laws; (3) ...**in any case of conspiracy** set forth in this section, **if one or more persons** engaged therein **do, or cause**..." (continued, page 125 hereof)

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92. Having been denied "Bail on Appeal" by Overstreet [see hereinabove paragraph E-90]; (a) on May 29, 1997, Akers filed his "APPLICATION FOR BAIL PENDING APPEAL" [Exhibit "DDD" hereto] with the Kentucky Court of Appeals

pursuant to RCr 12.82 citing substantial bases for the granting thereof.

93. (a) On June 9, 1997, Swartz continued to perform her "chain-like" function in furtherance of those conspiracies as outlined in hereinabove paragraphs A-2, A-3(f), E-12 thru E-14, E-16, E-24, E-35, E-36, E-38, E-40 thru E-45, E-47 thru E-49, E-50(a), (d), (e), & (f), E-56(a), (b), & (e), E-61, E-64 thru E-67, E-72 thru E-77, E-81 thru E-91, and all the corresponding footnotes thereto, by filing her frivilous and/or fraudulent "RESPONSE..." [Exhibit "EEE" hereto] to Akers' "APPLICATION FOR BAIL PENDING APPEAL" [Exhibit "DDD" hereto] resulting in; (b) the further denial of Akers' liberty by the Kentucky Court of Appeals. [see "ORDER" of August 14, 1997, Exhibit "FFF" hereto]

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[98] **TITLE 42 U.S.C. § 1985** (continued from page 124 hereof): "...**to be done, any act in furtherance of the object of such conspiracy**, whereby another is injured in his person **or property, or deprived of having and exercising any right or privilege** of a citizen of the United States, the party so injured or deprived may have an action for the recovery of damages occasioned by such injury or deprivation, against one or more of the conspirators." (emphasis added); and "**Fraud**" defined: "...A generic term, embracing all multifarious means which human ingenuity can devise, ...**to get advantage over another by false suggestions** or **by suppression of the truth** ...; As distinguished from negligence, **it is always positive, intentional**. It comprises **all acts, omissions, and concealments** involving a breach of a legal **or equitable duty and resulting in damage to another**. And includes **anything calculated to deceive**, whether it be a single act **or combination of circumstances**, whether the **suppression of truth or the suggestion of what is false**, whether it be direct falsehood or by innuendo, by speech or **by silence**, by word of mouth, **or by look or gesture**." [Black's Law Dictionary, Abridged Sixth Edition, 8th reprint-1988]

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94. While imprisoned pursuant to his convictions resulting from hereinabove paragraphs E-31, E-32, E-35, E-36, E-38, E-40 thru E-42, E-48, E-51, E-54, E-56 thru E-68, E-70 thru E-79, & E- 81 thru E-87, and for the purpose of preparing further "post-conviction relief" in addition to his appeal, (a) on June 10, 1997, Akers filed a motion with Overstreet for provision (**at Akers' expense**) of certain documentation on file with Fayette

Circuit Court [see Exhibit "GGG" hereto]; and (b) Overstreet "**OVERRULED**" that said motion on June 27, 1997, on the purported grounds that Akers was otherwise represented by counsel [see Exhibit "HHH" hereto]; (c) Akers then filed his "MOTION FOR RECONSIDERATION...AND FOR FINDINGS OF FACT AND CONCLUSIONS OF LAW..." [Exhibit "III" hereto] advising Overstreet that counsel had only been retained by Akers for the **sole purpose of appeal** and was **not authorized** by Akers to proceed in any other manner; and subsequent "MOTION TO RULE..." [Exhibit "JJJ" hereto]; and (d) that motion was also "**OVERRULED**" by Overstreet on August 20, 1997.[99] [see Exhibit "KKK" hereto]

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[99] See: **ARTICLE IV-SECTION 2**, U. S. Constitution [supra, page 6 hereof],i.e., "[1.] The citizens of each state shall be entitled to **all privileges and immunities** of citizens in the several states" (emphasis added); **ARTICLE III-SECTION 2** [id.], i.e., "[1.] The judicial power shall extend to all cases, **in law or equity**, arising under this constitution, the laws of the United States...; ...between citizens of different states" (emphasis added); **ARTICLE IV-SECTION 2** [id.], i.e., "[1.] The citizens of each state shall be entitled to **all privileges and immunities** of citizens in the several states" (emph. added); **U.S. Const. Amend. 5** [id., page 7 hereof], i.e., "No person shall...**be deprived of**...**liberty**, or property, **without due process of law**" (emphasis added) and corresponding footnote [5], i.e., "Due process of law" defined: "Law in its regular course of administration through courts of justice. ...Due process of law implies the right of the person affected thereby to be present before the tribunal..." (continued, page 127 hereof]

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[99] "Due process of law" defined (continued from page 126 hereof): "...which pronounces judgement upon the question of life, liberty, or property, in its most comprehensive sense; to be heard, by testimony or otherwise, **and to have the right of controverting ...every material fact which bears on the question of right in the matter involved. If any question of fact or liability be conclusively presumed against him, this is not due process of law**. An orderly proceeding wherein a person is **served with notice**, actual or constructive, and **has an opportunity to be heard and to enforce and protect his rights** before a court having power to hear and determine the case. ...**The concept of 'due process of law' as it is embodied in the Fifth Amendment demands that a law shall not be unreasonable, arbitrary, or capricious**... U. S. v. Smith, D.C. Iowa, 249 F.Supp. 515, 516. Fundamental requisite of 'due process' is the opportunity to be heard, to be aware that a matter is pending, to make an informed choice

whether to acquiesce or contest... Trinity Episcopal Corp. v. Romney, D.C.N.Y., 387 F.Supp. 1044, 1084. **Aside from all else, 'due process' means fundamental fairness and substantial justice**. Vaughn v. State, 3 Tenn. Crim. App. 54, 456 S.W.2d, 879, 883. Embodied in the due process concept are the basic rights of a defendant in criminal cases and the requisites for a fair trial. These rights and requirements have been expanded by Supreme Court decisions and include, timely notice of a hearing or trial which informs the accused of the charges against him or her; **the opportunity to confront accusers and to present evidence on one's own behalf before an impartial jury or judge**; the presumption of innocence under which **guilt must be proven** by legally obtained evidence and **the verdict must be supported by the evidence presented**, and **the guarantee that an individual will not be tried more than once for the same offense (double jeopardy)**." [Black's Law Dictionary, Sixth Edition, 12th Reprint-1998 (emphasis added)]; ; **U.S. Const. Amend. 14** [id., pages 10 & 11 hereof], i.e., "**All persons** born or naturalized in the United States, and subject to the jurisdiction thereof, are **citizens of the United States** and of the **State wherein they reside**. **No State** shall make or enforce **any law** which shall abridge the privileges or immunities of citizens of the United States; **nor shall any state deprive any person of life, liberty, or property, without due process of law**; nor deny any **person within its jurisdiction equal protection of the laws**" (emphasis added) and corresponding footnote [99], i.e., "**Equal protection of the law**" defined: "**The constitutional guarantee of "equal protection of the law" means that no person or class of persons shall be denied the same protection of the laws... in their lives, liberty, property, or in their pursuit of happiness**. People v. Jacobs, 27 Cal.App.3d 246, 103 Cal.Rptr. 536, 543; 14th Amend., U.S. Const. ...**The equal protection of the laws of a state is extended to persons within its jurisdiction...with like rules of evidence and modes of procedure, for the security of their persons and property, the prevention and redress of wrongs, and the enforcement of contracts; ...when no different or greater punishment is enforced against them for a violation of the laws.**" See also: "**Equal protection clause**", i.e., "**That provision of the 14th Amendment to U.S. Constitution which prohibits a State from denying any person within its jurisdiction the equal protection of the laws. This clause requires that persons...be given equal protection** in the enjoyment of personal rights and the prevention **and redress of wrongs**." [Black's Law Dictionary, Sixth Edition, 12th Reprint-1998 (emphasis added)]; **TITLE 18 U.S.C. § 5. United States defined:** The term "United States", ..." (continued, page 128 hereof]

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[99] **TITLE 18 U.S.C. § 5** (continued from page 127 hereof): "...as used in this title in a territorial sense, includes **all places** and waters, continental or insular, **subject to the jurisdiction of the United States**, except the Canal Zone." (emphasis added); **TITLE 28 U.S.C. § 1654**: [id., page 16 hereof], i.e., "In all courts of the United States, **the parties may plead and conduct their own cases personally** or by counsel as, by the rules of such courts, respectively, are

permitted to manage and conduct causes therein" (emphasis added); **TITLE 42 U.S.C. § 1983. Civil action for deprivation of rights** [id.], i.e., "**Every person** who, **under color of any statute**, ordinance, custom, or usage, **of any State** or Territory or the District of Columbia, **subjects, or causes to be subjected, any citizen of the United States** or other person within the jurisdiction thereof **to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws**, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress" (emphasis added); **TITLE 42 U.S.C. § 1985. Conspiracy to interfere with civil rights**: (2) If **two or more persons in any State** or Territory or the District of Columbia **conspire** to...influence the verdict, presentment, or indictment of any grand or petit jury..., or **if two or more persons conspire** for the purpose of impeding, hindering, obstructing, or defeating, **in any manner, the due course of justice in any State or Territory, with the intent to deprive any citizen...equal protection of the laws**, or to injure him or his property for lawfully enforcing, or **attempting to enforce**, the right of any person, or class of persons, to the equal protection of the laws; (3) ...**in any case of conspiracy** set forth in this section, **if one or more persons** engaged therein **do, or cause to be done, any act in furtherance of the object of such conspiracy**, whereby another is injured in his person **or property, or deprived of having and exercising any right or privilege** of a citizen of the United States, the party so injured or deprived may have an action for the recovery of damages occasioned by such injury or deprivation, against one or more of the conspirators" (emphasis added) and corresponding footnotes [10], [11], & [12] thereto, i.e., "**Conspiracy**" defined: "A combination or confederacy between two or more persons formed for the purpose of committing, by their joint efforts, some unlawful or criminal act, or **some act which is lawful in itself, but becomes unlawful when done by the concerted action of the conspirators**, or for the purpose of using criminal or unlawful means to the commission of an act in itself unlawful. A person is guilty of conspiracy with another person or persons to commit a crime if with the purpose of promoting or facilitating its commission he: (a) agrees with other such person that they or one or more of them will engage in conduct which constitutes such crime or an attempt or solicitation to commit such crime; or (b) agrees to aid such other person or persons in the planning or commission of such crime or of an attempt or solicitation to commit such crime. Model Penal Code, § 5.03. **A conspiracy may be a continuing one; actors may drop out, and others drop in**; the details of operation may change from time to time; the members need not know each other or the part played by others; a member need not know all the details of the plan or the operations; he must, however, know the purpose of the conspiracy and agree to become a party to a plan to effectuate that purpose. **There are a number of federal statutes prohibiting specific types of conspiracy**." [Black's Law Dictionary, Abridged Sixth Edition, 8th Reprint-1988 (emph.added)]; "***[Chain] Conspiracy***" defined [id.], i.e., "Such a conspiracy is characterized by different..." (continued, page 129 hereof)

95. Having received no relief pursuant to those requests in hereinabove paragraph E-94; (a) on August 1, 1997, Akers filed his "Open Records Request" [see Exhibit "LLL" hereto] with the Fayette [Kentucky] Circuit Court Clerk in effort to obtain those records denied by Overstreet and, in performance of their "chain-like" function in furtherance of those conspiracies as outlined hereinabove, **that request was ignored** by officers and/or employees of the Office of Fayette [Kentucky] Circuit Court Clerk (known only as a group of persons at the Office of the Fayette [Kentucky] Circuit Court Clerk, hereinafter "FCC Does 1 through 10").[100]

96. Pursuant to Akers' appeal of those convictions in hereinabove paragraphs E-80 & E-81, the Court of Appeals of the Commonwealth of Kentucky rendered Its **first** "Opinion Vacating and Remanding" [see Exhibit "MMM" hereto] Akers convictions on February 27, 1998, on the explicit grounds that: (a) Akers was denied due process of law by improper joinder of offenses; (b) the trial court had improperly admitted evidence of alleged and...

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[99] "*[Chain] Conspiracy*" defined (cont'd from page 128 hereof): "...activities carried on with same subject of conspiracy in chain-like manner that **each conspirator in a chain-like manner performs a serparate function which serves in the accomplishment of the overall conspiracy**." [id.]; and "*[Civil] Conspiracy*" defined [id.], i.e., "The essence of a 'civil conspiracy' is a concert or combination to defraud or cause other injury to person or property, which results in damage to the person or property of plaintiff." **See also**: **"[Civil] Conspiracy"** further defined: "A combination of two or more persons who, by concerted action, seek to accomplish an unlawful purpose or to accomplish some purpose, not in itself unlawful, by unlawful means." [id.]

[100] Hereinabove paragraph E-94 and corresponding footnote [99] thereto are re-stated herein the same as if set forth in its entirety.

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uncharged prior/other bad acts; (c) the trial court refused to admonish the jury with respect thereto such alleged an uncharged prior/other bad acts; and (d) further ruling that:

"While this evidence was **somewhat relevant to aspects of the stalking charge**, we agree with Akers that its probative value did not outweigh its prejudicial effect. **Moreover, the evidence of Akers' prior acts of domestic violence was not even arguably relevant to the assault charge.**" [id., page 6, lines 4 thru 10 (emphasis added)];

"Considering the trial court's **failure to make a finding [as to] the probative value of the evidence and** the trial court's **refusal to admonish the jury as to the proper use of the evidence**, we must vacate and remand for a new trial." [id., lines 14 thru 18 (emphasis added)]; and

"...**the evidence supporting a finding of first degree assault was not overwhelming**. As discussed, we cannot dismiss the likely probability that the jury improperly considered Akers' character when determining the degree of the assault. **As a result, we are compelled to vacate the assault conviction as well.**" [id., page 11, lines 1 thru 6 (emphasis added)][101]

97. On March 5, 1998, Overstreet conveyed by and through Akers' attorney Marcel Bush Radomile (hereinafter "Radomile") a "**condition**" to the effect that: "She (Overstreet) won't recuse herself **unless you** (Akers) **hire her husband** as defense counsel for your (Akers) new trial".[102] (emphasis added)

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[101] **See also**: TT#1, M. Radomile/L. Red Corn/R. Overstreet, 10/26/98, 13:31:00, et seq., i.e., Akers' motions accordingly pursuant to retrial.

[102] **It is well-known among Central Kentucky's legal community that it is virtually impossible to receive fair treatment and, in fact, that a party to an action will be "victimized" in Overstreet's court unless that party is on the same "political side" as Overstreet.** It is, as well, **clearly understood that the only way to secure Overstreet's recusal** and, thereby, avoid her oppression and/or tyranny, is to secure the services of her husband (an attorney in Versailles, [Central] Kentucky) to **force her recusal as "conflict of interest".** Even worse, it has been a **long-standing practice of Overstreet to capitalize on this scenario for the**..." (continued, page 131 hereof)

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[102] (continued from page 130 hereof): "...**express extortionate purpose** of both building the practice of her husband and capitalizing upon the misfortune of **any adverse party within her "kangaroo court"**. **See also**: **United States Codes Annnotated** [supra, page 11 hereof, et seq.], i.e., **TITLE 18 U.S.C. § 2. Principals**: "(a) Whoever **commits** an offense against the United States or **aids, abets, counsels**, commands, **induces, or procures** its commision, **is punishable as a principal**. (b) Whoever willfully causes an act to be done which if directly performed by him or another would be an offense against the United States, is punishable as a principal." (emphasis added); **TITLE 18 U.S.C. § 3. Accessory after the fact:** "Whoever, knowing that an offense against the United States has been committed, **receives, relieves**, comforts **or assists** the offender in order to hinder or prevent his apprehension, trial or punishment, **is an accessory after the fact**." (emph. added); **TITLE 18 U.S.C. § 5. United States defined**: "The term 'United States', as used in this title in a territorial sense, includes **all places** and waters, continental or insular, **subject to the jurisdiction of the United States**, except the Canal Zone." (emphasis added); **TITLE 18 U.S.C. § 1503. Influencing or injuring officer or juror generally**: "(a) Whoever **corruptly ...endeavors to influence or impede any grand or petit juror**, or officer in or of any court of the United States, ...**or endeavors to influence, obstruct, or impede, the due administration of justice**, shall be punished as provided in subsection (b)." (emphasis added); **TITLE 18 U.S.C. § 1512. Tampering with a witness, victim, or an informant**: "(b) Whoever knowingly uses **intimidation ...or corruptly pursuades** another person, **or attempts to do so**, or engages in misleading conduct toward another person, **with intent** to -- (1) **influence**, delay, **or prevent...testimony of any person** in an official proceeding; (2) **cause or induce any person to** -- (A) withhold testimony, or withhold a record, document, or other object from an official proceeding; (B) **alter**, destroy, **mutilate**, or conceal **an object with intent to impair the object's integrity** or availability in an official proceeding; shall be fined under this title or imprisoned not more than ten years, or both." (emphasis added); **TITLE 18 U.S.C. § 1341** [supra, page 13 hereof], i.e., "Whoever, **having devised or intending to devise** any scheme or artifice to defraud, **or for obtaining money or property by means of false or fraudulent pretenses**, ...**or attempting so to do**, places in any post office or authorized depository for mail matter, **any matter or thing whatever**, to be sent or delivered by the Postal Service, or deposits or causes to be deposited any matter or thing whatever to be **sent or delivered by any private** or commercial interstate carrier, or takes or receives therefrom, any such matter or thing, **or knowingly causes to be delivered** by such carrier according to the direction thereon, or at the place at which it is directed to be delivered to the person to whom it is addressed, **any such matter or thing**, shall be fined under this title or imprisoned not more than five years, or both." (emph.added); **TITLE 18 U.S.C. § 1961** [supra, page 14 hereof]: "(1) 'racketeering activity' means ...; (B) any act which is indictable under any of the following provisions of title 18, United States Code: ...section 1341 (relating to

mail fraud), section 1343 (relating to wire fraud), ...section 1503 (relating to obstruction of justice); ...section 1512 (relating to tampering with a witness, victim, or an informant); (2) 'State' means **any State** of the United States, **any territory** or possession of the United States, any political subdivision, or any department, agency, or instrumentality thereof; (3) 'person' includes any individual, or entity..." (continued, page 132 hereof)

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[102] **TITLE 18 U.S.C. § 1961** (continued from page 131 hereof): "...capable of holding a legal or beneficial interest in any property; (4) "enterprise" includes any individual, partnership, corporation, association, or other legal entity, and **any union or group of individuals associated in fact** although not a legal entity; (5) 'pattern of racketeering activity' **requires at least two acts** of racketeering activity, one of which occurred after the effective date of this chapter and at least one of which occurred within ten years after the commission of a prior act of 'racket-eering activity'" (emphasis added); **TITLE 18 U.S.C. § 1962** [supra, page 14 hereof], i.e., "(a) It shall be unlawful for any person who has received any income derived, directly or indirectly, from a pattern of racketeering activity...in which such person has participated as a principal within the meaning of section 2, title 18, United States Code, **to use or invest, directly or indirectly, any part of such income**, in acquisition of any interest in, **or the activities of which affect**, interstate commerce; (d) It shall be unlawful for any person **to conspire** to violate any of the provisions of subsection (a), (b), or (c) of this section" (emphasis added); **K.R.S. 514.080 Theft by extortion**: "(1) A person is guilty of theft by extortion when he intentionally obtains the property of another **by threatening to**: (b) **Accuse anyone of a criminal offense**; or (c) **To expose a secret tending to subject any person to hatred, contempt, or ridicule, or to impair his credit or business repute**...; (3) Theft by extortion is a Class A misdemeanor unless the value of the **property obtained is three hundred dollars or more**, in which case it is a **Class D felony**." (emphasis added). **TITLE 42 U.S.C. § 1983. Civil action for deprivation of rights**: "**Every person** who, **under color of any statute, ordinance, custom**, or usage, **of any State** or Territory or the District of Columbia, **subjects, or causes to be subjected, any citizen of the United States** or other person within the jurisdiction thereof **to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws**, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress;" (emphasis added); **TITLE 42 U.S.C. § 1985. Conspiracy to interfere with civil rights**: "(2) If **two or more persons in any State** or Territory or the District of Columbia **conspire** to...influence the verdict, presentment, or indictment of any grand or petit jury..., or **if two or more persons conspire** for the purpose of impeding, hindering, obstructing, or defeating, **in any manner, the due course of justice in any State or Territory, with the intent to deprive any citizen equal protection of the laws**, or to injure

him or his property for lawfully enforcing, or **attempting to enforce**, the right of any person, **or class of persons**, to the equal protection of the laws; (3) ...**in any case of conpiracy** set forth in this section, **if one or more persons** engaged therein **do, or cause to be done, any act in furtherance of the object of such conspiracy**, whereby another is injured in his person **or property, or deprived of having and exercising any right or privilege** of a citizen of the United States, the party so injured or deprived may have an action for the recovery of damages occasioned by such injury or deprivation, against one or more of the conspirators." (emphasis added); hereinabove paragraphs A-1, A-2, A-3, A-4, A-5, E-1, E-2, E-12, E-44, E-82 and corresponding Exhibits "UU", "VV", "WW", & "XX" thereto, E-83, E-85 thru E-87, E-89, E-90, E-94, & E-96; and herein-after paragraphs E-99, E-104, E-105, E-107 thru E-114, E-121, & E-123 thru E-127.

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98. On April 2, 1998, Akers was released from the Kentucky Department of Corrections and transferred back to Fayette County Detention Center pending re-trial on both the indicted charges.

99. On April 5, 1998, Akers was again arraigned before Overstreet and, **despite Akers' "Motion for Bond Reduction"** in view of having "served out" over three (3) years imprisonment, **Overstreet increased Akers' pre-trial bail of "$52,000 Property Bond" to "$52,000 Full Cash", effectively doubling Akers' prior conditions for release** [see Exhibit "NNN" hereto and herein above paragraphs E-80, E-82, & E-83] and citing "new domestic violence laws" enacted in 1998 as her reasons therefor.[103]

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[103] See: **ARTICLE I-SECTION 10**: [supra, page 6 hereof], i.e., "[1.] "**No state shall...pass any** bill of attainer, ***ex post facto* law**..." (emphasis added); **ARTICLE IV-SECTION 2, U. S. Constitution** [id., page 6 hereof], i.e., "[1.] The citizens of each state shall be entitled to **all privileges and immunities** of citizens in the several states" (emph. added); **U.S. Const. Amend. 8** [id., page 10 hereof], i.e., "**Excessive bail** shall not be required, nor...**unusual punishments** inflicted" (emphasis added); **U.S. Const. Amend. 14** [id., pages 10 & 11 hereof], i.e., "**All persons** born or naturalized in the United States, and subject to the jurisdiction thereof, are **citizens of the United States** and of the **State wherein they reside**. **No State shall make or enforce any law** which shall abridge the privileges or immunities of citizens of the United States; **nor shall any state deprive any person of life, liberty, or property, without due process of law**; nor deny any **person within its jurisdiction equal protection of the laws.**"

(emphasis added); **ARTICLE 1, SECTION 15, Tennessee Constitution** [supra, page 20 hereof], i.e., "**Bailable offenses - Habeas corpus -** That **all prisoners shall be bailable by sufficient sureties**, unless for capital offences, when the proof is evident, or the presumption great. And **the writ of Habeas corpus shall not be suspended**, unless in case of rebellion or invasion, the General Assembly shall declare the public safety requires it." (emphasis added); **ARTICLE 1, SECTION 16, Tenn. Const.** [id., page 20 hereof], i.e., "**Restrictions on bail, fines and punishment -** "That **excessive bail shall not be required**, nor excessive fines imposed, **no cruel and unusual punishments inflicted**." (emphasis added); **Ky Const § 2** [supra, page 26 hereof], i.e., "**Absolute and arbitrary power denied: "Absolute and arbitrary power over** the lives, liberty and property of **freemen exists nowehere in a republic, not even in the largest majority**." (emphasis added); **Ky Const § 16. Right to bail; habeas corpus** [id., page 27 hereof], i.e., "**All prisoners shall be bailable**..." (continued, page 134 hereof)

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100. On April 15, 1998, (a) Harvil and Akers' family posted the ordered $52,000 Full Cash Bond; (b) Akers was then released from custody; and (c) **promptly returned to Nashville, Tennessee, with Harvil**.

101. On April 16, 1998, Akers' then counsel, David A. Tapp, (hereinafter "Tapp") filed a "Motion to Sever" Akers' charges for re-trial [Exhibit "OOO" hereto] and a "Motion in Limine" with respect to alleged "prior/other bad acts" [Exhibit "PPP" hereto], consistent with the Kentucky Court of Appeals' "Opinion Vacating and Remanding" noted in hereinabove paragraph E-95.

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[103] **Ky Const § 2** (continued from page 133 hereof): "... by sufficient securities, unless for capital offenses when the proof is evident or the presumption is great..." (emphasis added); **Ky Const § 17** [id.], i.e., "**Excessive bail or fine, or cruel punishment, prohibited: "Excessive bail shall not be required** ..." (emphasis added); **Ky Const § 19 (1)** [id., page 28 hereof], i.e., "**No ex post facto law, ...shall be enacted**" (emphasis added); **Ky Const § 26** [id.], i.e., "To guard against transgression of the high powers we have delegated, We Declare that **every thing in this bill of rights is excepted out of the general powers of government and shall forever remain inviolate; and all laws contrary thereto, or contrary to this Constitution, shall be void**." (emph.added); **[Kentucky Rule of Criminal Procedure] RCr 4.54 Continuation of bail**: "(3) In the event of a reversal of a conviction by an appellate court granting the defendant a new trial, the defendant shall be entitled to the rights of pretrial release under Rule 4.04

as if on initial appearance. (4) The efficacy of a bail bond shall not be affected by the fact that the defendant is prosecuted for an offense different from but arising out of the same occurrence as the charge named in the bail bond." (emph. added); Kentucky Criminal Practice § 11.09 **Modification or revocation of bail**, i.e., "In **Marcum v Broughton**, the Court held that **after bond has been set by the court, the bond may not be increased or revoked without a change in the defendant's status**. The Court stated that **increasing the bond without any reason would be an arbitrary action in violation of § 2 of the Constitution of Kentucky**" (emph. added); Kentucky Criminal Practice § 11.10 **Termination of right to bail by operation of law**, i.e., "The setting aside of the judgement of conviction and remanding for a new trial would place the defendant in the same position as he was prior to conviction, thus raising a good ground for reducing the amount of the bail to the pre-conviction level."; and CP#1, R. Overstreet/D. Tapp, 04/09/98, 13:22:25, et seq.

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102. On April 20, 1998, Tapp filed a "Motions to Dismiss Count Two of the Indictment" on grounds that **the Commonwealth's "case-in-chief" with respect to that charge was based upon acts alleged to have occurred while Akers was not subject to a valid "Domestic Violence Order"** and, therefore, that one "essential element" of "First Degree Stalking" **was not satisfied**. [see Exhibit "QQQ" hereto and hereinabove paragraphs E-64 thru E-68][104]

103. On April 21, 1998, a "Pre-Trial Conference" was held at Fayette Circuit Court, during which Red Corn tendered her offer to "Amend Assault 1st - Assault 4th - 12 mos; Stalking 1st - 5 yrs." [see Exhibit "RRR" hereto]

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[104] **The required elements** of "Stalking in the First Degree -- 508.140" are: "(1) **Intentionally** (2) Stalk another person; and (3) Make an explicit or implicit threat **with intent** to place that person in **reasonable fear** of: (a) Sexual contact as defined in KRS 510.010, or (b) Serious physical injury, or Death; and (4)(a)(i) A protective order or another judicial order as provided in KRS Ch 403 has been issued to protect same victim, and (ii) **Defendant has been served with the summons or order or been given actual notice**; [or (b)(i), (c)(i), and (d) **do not apply**]; and (5) **Venue**." [West Group/Westlaw Publishing, Kentucky Revised Statutes, 1995 Edition (emph. added)]. **See also**: Hereinabove paragraphs E-51 thru E-68. Notwithstanding that **it should be obvious that Akers did not intend to "stalk" Bishop, in any manner**, there can be **no question that his acts**

upon which Kentucky officials relied (i.e., threatening Bishop with a "lawsuit") do not reach the "intent" element of K.R.S. 508.140(3). Further, and that which is the subject matter of Tapp's motion, there can be **absolutely no question that Kentucky had no "personal jurisdiction" over Akers on July 7, 1995, regardless of the context** in which Bishop perceived his "go for the throat" comment. **See additionally**: Hereinabove paragraphs E-51, E-54, E-64 thru E-68, & E-72 thru E-82 together with corresponding footnotes thereto; **K.R.S. 500.060** [supra, page 31 hereof] together with corresponding footnote [32] thereto; and **U.S. v. Casciano, 927 F.Supp. 54 N.D.N.Y. 1996**, i.e., "11. ...**For purposes of crossing a state line** with intent **to engage in conduct in violation of protective order**, **if court issuing order has failed to obtain personal jurisdiction** over defendant by service of process, **then order was invalid and prosecution cannot survive**. 18 U.S.C.A. § 2262(A)(1); 12. Due process clause requires that notice be reasonably calculated, **under all circumstances**, to apprise interested parties of penalty of an action and afford them an opportunity to present their objections. **U.S.C.A. Const. Amend. 5**." (emphasis added)

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104. On May 20, 1998, a hearing was conducted pursuant to those "Motions" in hereinabove paragraphs E-100 & E-101.[105] **After having effectively OVERRULED all three motions**, Overstreet made the following statement to the parties **on the record** [see CP#1, R. Overstreet, 04/24/1998, 14:29:50]:

> Overstreet: "Maybe I'm wrong, **and I haven't read the Court of Appeals opinion**, but wasn't their problem -- (emphasis added)

[**Note**: The period of time covered by the indictment for Count 2: First Degree Stalking had already been ammended to read: "from November 1994 to May 1995" on May 8, 1998. See Exhibit "SSS" hereto and TT#1, M. Radomile/L. Red Corn/R. Overstreet, 10/26/98, 13:31:00, et seq.]

105. On May 5, 1998, Akers was hired as a Project Manager for Interkal/GDS Seating, Incorporated, of Kalamazoo, Michigan, and Fountain Inn, South Carolina, and assigned "full charge" authority of their $4,700,120.00 contract for the Tennessee NFL Stadium in Nashville, Tennessee. [see Exhibit "TTT" hereto]

106. (a) During the succeeding months of May, 1998 until Akers' re-trial on October 26, 1998, Akers made every reasonable attempt to finally resolve all "criminal matters" in Kentucky...

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[105] Red Corn stated, **on the record**, that: "**Although [Akers] was not on actual notice of the extension** [of the previous Domestic Violence Order], **we felt like he shouldn't be allowed to benefit from not making himself available to be served**..." [see CP#1, L. Red Corn, 05/08/98, 14:41:05, et seq.; CP#1, L. Red Corn/D. Tapp, 05/29/98, 14:27:05, et seq.; hereinabove paragraphs E-51, E-54, E-64, E-65, E-66, E-62 thru E-70, **esp. E-71**, E-72 thru E-83, E-86, & E-96 together with all corresponding footnotes thereto; **U.S. Const. Amend. 5** [supra, page 7 hereof together with corresponding footnote [5]]; **U.S. Const. Amend. 14** [id., page 10 hereof together with corresponding footnote [6]]; and **U.S. v. Casciano, 927 F.Supp. 54 N.D.N.Y. 1996** [hereinabove footnote [104]]. **Red Corn further stated that she "strongly disagree[d] with the [Kentucky] Court of Appeals..."** as to the relevancy of her proposed evidence of "other bad acts". [see CP#1, L. Red Corn, 05/08/98, 14:47:45, et seq.]

and to that desired end, retained Earnest W. Williams (a former U. S. Attorney for the Middle District of Tennessee, hereinafter "Williams"), to negotiate a resolution thereof, but Akers could not **conscienably accept** Red Corn's offers of: (a) "5 years for a guilty plea of 1st degree stalking and 4th degree assault"; **then** (b) "4 years for a guilty plea of 1st degree stalking stalking and 4th degree assault"; and **finally**, (c) "5 years probation for a guilty plea of 1st degree stalking 4th degree assault". [see Collective Exhibits "UUU" hereto]

107. (a) On September 5, 1998, Williams conveyed to Akers the results of his meeting with Red Corn on September 2, 1998, and her resolution offer in hereinabove paragraph 106(d) with the express conditions that: (b) The Commonwealth Attorney's Office for the [Kentucky] Twenty-second Judicial District had "no problem with [the offer] but that [they didn't] know whether Overstreet [would] agree to it"; and (c) that "[Akers would] have to hire someone who [Overstreet] trust[ed] (i.e., either Mike Maloney, Larry Roberts, or Jim Lowrey, all of

whom are attorneys in the Lexington, Kentucky, area and then supporting Overstreet's campaign for a seat on the Kentucky Supreme Court) to present it to [Overstreet]."[106]

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[106] See: **ARTICLE IV-SECTION 2 [1.], U.S. CONST.** [supra, page 6 hereof], i.e., "The citizens of each state shall be entitled to **all privileges and immunities** of citizens in the several states"; **U.S Const. Amend. 4** [supra, page 6 hereof], i.e., "The right of the people to be secure in their **persons**, houses, papers, and effects, against unreasonable searches and **seizures**, shall not be violated" (emphasis added); **U.S. Const. Amend. 14** [id., pages 10 & 11 hereof], i.e., "**All persons** born or..." (continued, page 138 hereof)

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[106] **U.S. Const. Amend. 14** (continued from page 137 hereof): "...naturalized in the United States, and subject to the jurisdiction thereof, are **citizens of the United States** and of the **State wherein they reside**." (emphasis added); **ARTICLE 1, SECTION 8, Constitution of Tennessee** [supra, page 18 hereof], i.e., "That **no man shall be taken or imprisoned, or disseized of his free-hold, liberties or privileges**, outlawed, **or exiled or in any manner destroyed or deprived of his life, liberty, or property, but by the judgement of his peers or the law of the land**" (emphasis added); **Ky Const § 2. Absolute and arbitrary power denied** [supra, page 26 hereof], i.e., "**Absolute and arbitrary power over** the lives, liberty and property of **freemen exists nowehere in a republic, not even in the largest majority**" (emph. added); **Ky Const § 26** [supra, page 28 hereof], i.e., "To guard against transgression of the high powers we have delegated, We Declare that **every thing in this bill of rights is excepted out of the general powers of government and shall forever remain inviolate; and all laws contrary thereto, or contrary to this Constitution, shall be void**" (emph. added); **TITLE 18 U.S.C. § 875. Interstate communi-cations** [supra, page 12 hereof], i.e, "(d) Whoever, **with intent to extort** from any person, firm, association, or corporation, **any money or other thing of value, transmits in interstate** or foreign commerce **any communication** containing any threat to injure the property **or reputation** of...another...**or any threat to accuse...any other person of a crime**, shall be fined under this title or imprisoned not more than two years, or both." (emphasis added); **TITLE 18 U.S.C. § 2. Principals**: "(a) Whoever **commits** an offense against the United States or **aids, abets, counsels**, commands, **induces, or procures** its commision, **is punishable as a principal**. (b) Whoever willfully causes an act to be done which if directly performed by him or another would be an offense against the United States, is punishable as a principal." (emphasis added); **TITLE 18 U.S.C. § 5. United States defined**: "The term 'United States', as used in this title in a territorial sense, includes **all places** and waters, continental or insular, **subject to the**

jurisdiction of the United States, except the Canal Zone." (emph. added); **TITLE 18 U.S.C. § 1961** [supra, page 14 hereof]: "(1) 'racketeering activity' means...; (B) any act which is indictable under any of the following provisions of title 18, United States Code: ...section 1341 (relating to mail fraud), section 1343 (relating to wire fraud), ...section 1503 (relating to obstruction of justice); ...section 1512 (relating to tampering with a witness, victim, or an informant); (2) 'State' means **any State** of the United States, **any territory** or possession of the United States, any political subdivision, or any department, agency, or instrumentality thereof; (3) 'person' includes any individual, or entity capable of holding a legal or beneficial interest in any property; (4) "enterprise" includes any individual, partnership, corporation, association, or other legal entity, and **any union or group of individuals associated in fact** although not a legal entity; (5) 'pattern of racketeering activity' **requires at least two acts** of racketeering activity, one of which occurred after the effective date of this chapter and at least one of which occurred within ten years after the commission of a prior act of 'racketeering activity'" (emphasis added); **TITLE 18 U.S.C. § 1962** [supra, page 14 hereof], i.e., "(a) It shall be unlawful for any person who has received any income derived, directly or indirectly, from a pattern of racketeering activity...in which such person has participated as a principal within the meaning of section 2, title 18, United States Code, **to use or invest, directly or indirectly, any part of such income**, in..." (continued, page 139 hereof)

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108. On October 16, 1998, Overstreet **denied Akers the right to be heard and the right to *pro se* representation**[107] and further stated: "**Besides, I think I already know how the jury is going to rule in this case.**" [see CP#1, M. Radomile/J. Akers/R.Overstreet, 10/16/98, 11:29:00, et seq.]

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[106] **TITLE 18 U.S.C. § 1962** (continued from page 138 hereof): "...aquisition of any interestin, **or the activities of which affect**, interstate commerce; (d) It shall be unlawful for any person **to conspire** to violate any of the provisions of subsection (a), (b), or (c) of this section" (emphasis added); **K.R.S. 514.080 Theft by extortion**: "(1) A person is guilty of theft by extortion when he intentionally obtains property of another **by threatening to**: (b) **Accuse anyone of a criminal offense**; or (c) **To expose a secret tending to subject any person to hatred, contempt, or ridicule, or to impair his credit or business repute**...; (3) Theft by extortion is a Class A misdemeanor unless the value of the **property obtained is three hundred dollars or more**, in which case it is a **Class D felony**." (emph. added); **TITLE 42 U.S.C. § 1983. Civil action for deprivation of rights**: "**Every person** who, **under color of any statute, ordinance, custom**, or usage, **of any State** or Territory or the District of Columbia, **subjects, or causes to be**

subjected, any citizen of the United States or other person within the jurisdiction thereof **to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws**, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress" (emphasis added); and **TITLE 42 U.S.C. § 1985. Conspiracy to interfere with civil rights**: "(2) If **two or more persons in any State** or Territory or the District of Columbia **conspire** ...for the purpose of impeding, hindering, obstructing, or defeating, **in any manner, the due course of justice in any State or Territory, with the intent to deprive any citizen equal proection of the laws,** or to injure him or his property for lawfully enforcing, or **attempting to enforce**, the right of any person, **or class of persons**, to the equal protect-tion of the laws; (3) ...**in any case of conpiracy** set forth in this section, **if one or more persons** engaged therein **do, or cause to be done, any act in furtherance of the object of such conspiracy**, whereby another is injured in his person **or property, or deprived of having and exercising any right or privilege** of a citizen of the United States, the party so injured or deprived may have an action for the recovery of damages occasioned by such injury or deprivation, against one or more of the conspirators." (emphasis added)

[107] See: **ARTICLE IV-SECTION 2 [1.], U.S. CONST.** [supra, page 6 hereof]; **U.S. Const. Amend. 14** [id., page 10 hereof]; **TITLE 28 U.S.C. § 1654**: [id., page 16 hereof], i.e., "In all courts of the United States, **the parties may plead and conduct their own cases personally** or by counsel as, by the rules of such courts, respectively, are permitted to manage and conduct causes therein." (emphasis added); **Ky Const § 2.** [supra, page 26 hereof]; and "**Due process of law**" defined, footnote [5] [supra, page 8 hereof].

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109. As well on October 16, 1998, Akers served, by "**Certified Mail-Return Receipt Requested**", copies of all those Affidavits of the Plaintiff James G. Akers, Deborah L. Harvil, Woodsie E. Akers, Alan P. Akers, A. Wayne Akers, Stacy B. Akers, Beaulahvene Brown, Darryl Brown, Charlotte S. Kirby, and Dennis R. Akers, in hereinabove paragraph E-1 and which such affidavits are appended hereto as Exhibits "B" through "K", respectively.

110. On October 26, 1998, Akers' "re-trial", pursuant to the hereinabove "amended indictment", was commenced and was a **virtual** "**repeat performance**" of the first trial in May of 1996 [see "Notice of Evidence Pursuant to KRE 404(b), Exhibit "VVV" hereto; and "Final Judgement [&] Sentence of Imprisonment" [Exhibit "WWW" hereto]. As in hereinabove

paragraph E-86, some of the "irregularities" and/or hereunto relevant portions of Akers second trial include, **but are in no way not limited to**, the following:

I. Pre-trial Matters:

(a) Overstreet refused to recuse herself from the bench in Akers' trial on grounds that she was a member of the same church as the Commonwealth's complaining witness and a majority of the additional Commonwealth witnesses and based upon previous statements by Overstreet indicating unquestionable and extreme bias; &

(b) Overstreet denied Akers' inalienable right to participate in his defense, esp., to participate in/attend all bench conferences with respect to his retrial [TT#1, M. Radomile/R. Overstreet, 09:15:40, et, seq.]

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II. Jury Selection Phase:

(a) Overstreet referred to Bishop as the "the victim" upon her initial address to the prospective jurors [TT#1, R. Overstreet, 10/26/98, 09:44:45]; &

(b) Eleven of the prospective jurors came forward and admitted that either they or someone intimately associated with them had previously been the "victim" of "domestic violence", yet only three were excused from the panel [TT#1, M. Radomile/L. Red Corn/R. Overtstreet, 10/26/98, 10:13:45].

III. Jury Voir Dire Phase:

(a) Red Corn refers to the case as being termed "domestic violence" [TT#1, L. Red Corn, 10/26/98, 09:50:15]; &

(b) Red Corn intentionally misled the jury with respect to the essential elements of "assault in the first degree" and with respect to the definitions of "deadly weapon" and/or "dangerous instrument" [TT#1, L. Red Corn, 10/26/98, 10:17:05, et seq.].

IV. OPENING ARGUMENTS:

(a) Red Corn intentionally misled the jury with respect

to the time period of the alleged "stalking", i.e., "starting in November until August are evidence of the stalking." [see TT#1, L. Red Corn, 10/26/98, 11:44:30 and hereinabove paragraph E-103]; &

(b) Defense Attorney Marcel Bush Radomile renewed and entered her "blanket objection" to introduction of evidence of alleged "bad acts" which occurred after the period of time excluded by the amended indictment for the "stalking" charge inasmuch as those allegations extended...

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into that period when Akers was not aware of the "extension" of the original "Domestic Violence Order" and such evidence was, therefore, irrelevant to the instant case under trial [see hereinabove paragraph E-103]; Radomile as well renewed her previous "Motion for Severance" of the charges on re-trial consistent with the Court of Appeals Opinion in hereinabove paragraph E-95. Overstreet again "**OVERRULED**" both the objection and renewed motion [TT#1, M. Radomile/L. Red Corn/R. Overstreet, 10/26/98, 13:31:00, et seq.].

V. PROSECUTION'S CASE-IN-CHIEF:

(a) As at Akers' first trial in May of 1996, Red Corn introduced evidence of Akers' previous testimony [see TT#1, B. Taylor/L.Red Corn, 10/26/98, 13:45:50] in a "civil proceeding" and which such testimony was **clearly inadmissible pursuant to the provisions of K.R.S. 403.780** [supra, page 31 hereof]; &

(b) Upon cross-examination of prosecution witness, Bernessa Taylor, by Akers' Defense Attorney, Marcel Radomile, the following exchange ensued between Radomile, Red Corn, and Overstreet [see TT#1, 10/26/98, 13:46:40, et seq. (emphasis added)]:

Radomile: So, Bernessa, you said you've worked for nineteen years in the Domestic Violence office?

Taylor: Not in Domestic Violence -- I've worked for nineteen years in District Court -- And in Domestic Violence since 1991.

Red Corn: Your Honor, could we approach the bench for just a moment? ...

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Radomile: Bernessa, how many times have you been to court with domestic violence issues?

Taylor: Several.

Radomile: Would you say hundreds?

Taylor: (affirmatively)

Radomile: **Hundreds of times, then. And while you've worked in Domestic Violence, you've had hundreds of people come in and get petitions from you? Is that right?**

Taylor: **Yes.**

Radomile: **Uh -- How hard is it to get an Emergency Protective Order?**

Taylor: **Well -- you just -- as a victim, you have to allege that there's been an act of domestic violence or abuse or threatening.**

Radomile: So, can anyone go in there and

apply for a petition for an Emergency Protective Order?

Taylor: It has to be a family member that's -- you know -- in the guidelines of the statute.

Radomile: So, as long as it's someone who's living in the same household, then that person can go in and apply for a Domestic Violence Order? Is that right?

Taylor: Yes (affirmatively).

Radomile: And to apply for and E. P. O., they don't have to go to court, is that right?

Taylor: No.

Radomile: They just fill out a form? --

Taylor: Yes.

Radomile: **And if they allege the things that meet the criteria, then they're probably going to get an E. P. O. Is that right?**

Taylor: **Yes -- if the judge finds that there's been an act of domestic violence or abuse.**

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Radomile: **Do people ever lie on these petitions?**

Red Corn: **Object**. I don't know how she could know.

Overstreet: **Sustained**.

Radomile: Have you ever been in a court hearing on an Emergency Protection Order where the --

Red Corn: **Object to the relevancy**.

Overstreet: Approach the bench.

[*Bench conference*]:

Overstreet: What's your question gonna be?

Radomile: Well -- it's -- uh -- **if this process lends itself to abuse by people** -- she's been there. **She's been in court hundreds of times. She's taken hundreds of Domestic Violence Petitions**. You know -- because - uh -- **everyone getting a divorce is going to start out in Domestic Violence Court to try to get favorable conditions for the divorce. The process lends itself to abuse and everybody knows it**.

Red Corn: **The basis for my objection is that others have come to court and lied is not relevant as to whether or not this witness came to court and lied**. And what she's trying to get at is certainly something she can argue in her closing argument. But to elicit testimony from a clerk that people in the

past have come in and lied is not relevant testimony regarding whether this witness has lied...

Overstreet: Well, I think at least it's gonna be **-- it opens up a whole new area and 'cause we'd have to re-try every domestic case we've ever had and I can't let you do that. ... I'll sustain the objection.**

(c) Red Corn interjected numerous "evidentiary harpoons" of irrelevant/inadmissible testimony not included in her "Notice...

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pursuant to K.R.E. 404(b)" [Exhibit "DDDD" hereto] including, but not limited to: (i) Insinuations that Akers had changed locks on the Akers' marital residence after those events as depicted in hereinabove paragraph E-31[108] for the express purpose of denying Bishop access thereto [TT#2, C. Bishop, 10/26/00, 15:00:55; TT#2, J. Preston, 10/27/98, 14:26:10. (**See:** TT#3, A. P. Akers, 10/27/98, 17:59:20, et seq., 18:22:00; and TT#3, J. G. Akers, 10/28/98, 13:42:00, et seq., & 14:30:55]; (ii) That Akers had damaged a car Bishop was driving at some time in 1992 [TT#2, C. Bishop, 10/27/98, 09:25:25]; and (iii) That, at some time during the early 1980's, Akers "had guns" [TT#2, C. Bishop, 10/27/98, 10:46:05, et seq., **esp., 10:46:50**; Yet, (iv) Akers' **motions for mistrial** were **"OVERRULED"** by Overstreet. [see esp., TT#2, M. Radomile/L. Red Corn/R. Overstreet, 10/27/98, 10:49:10];

(d) Bishop, under the encouragement, guidance, and sanction of Red Corn and Overstreet, respectively, committed numerous acts of "fraud"[109] including, but not limited to: (i) testimony with respect to herein paragraph E-31 to the effect that Akers had "pulled [her] out of the bed by the hair of [her] head and drug...

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[108] **This evidence was not noticed pursuant to K.R.E. 404(b)** [supra, page 40 hereof]; **was, therefore, both irrelevant and inadmissible pursuant to K.R.E. 404(c)** [id.]; was **simply not true with respect to Akers' intentions in doing so**; neither **Akers or son, Alan, had any recollection thereof and were totally unprepared to testify as to the truth or falsity thereof due to Red Corn's intentional failure to provide notice pursuant to K.R.E. 404(b); and, regardless, was not relevant** inasmuch as **it had no bearing whatsoever to the charges for which Akers was being tried**.

[109] Footnote [87] [supra, page 111 hereof] is re-stated herein the same as if set forth in its entirety. See also: **TITLE 18 U.S.C. § 1961** [supra, page 14 hereof]; and **TITLE 18 U.S.C. § 1962** [supra, page 14 hereof].

[her] out in the hallway", struck her "repeatedly in the face with his fist", "threw her through [and/or into] a wall" [TT#2, C. Bishop, 10/27/98,09:55:35, et seq.; and TT#2, J. Preston, 10/27/98, 14:26:50)]; and ordered Bishop to leave the marital home [TT#1, C. Bishop, 10/26/98, 14:29:50, et seq.,]; (ii) That (Bishop) had **never previously experienced any problems with her neck prior to May 4, 1994** [TT#1, C. Patrick, 10/26/98, 15:07:20 et seq.];[110] (iii) That Akers had, **at some time in the early 1990's**, severely damaged a "picture" of Bishop which had been photographed when Bishop was "eighteen or nineteen" years of age [TT#1, C. Bishop, 10/26/98, 16:16:25, et seq., TT #2, C. Bishop/L. Red Corn, 10/27/98, 09:10:55];[111] & (iv) introduced into evidence and **showed to the jury a retouched photograph** of an incident which occurred on August 10, 1989, which fraudulently...

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[110] Footnote [87] [supra, page 112 hereof] is re-stated herein the same as if set forth in its entirety. See also: Exhibits "B" & "D" thru "K", respectively, hereto; **TITLE 42 U.S.C. § 1985(2), (3)** [supra, pages 16 & 17 hereof]; and "**Fraud**' defined", footnote [7] [supra, page 13 hereof].

[111] Footnote [78] [supra, page 100 hereof] is re-stated herein the same as if set forth in its entirety. See also: Hereinabove paragraph E-86.V(c)(iv) and

corresponding footnote [88] thereto; **TITLE 18 U.S.C. § 1512 (b)(2)(B)** [supra, page 14 hereof]; **TITLE 42 U.S.C. § 1985(2), (3)** [id., pages 16 & 17 hereof]; and footnote [7] [supra, page 13 hereof], i.e., "**Fraud**" defined: "A **false representation of a matter of fact**, whether by words or by conduct, **by false or misleading allegations, or by concealment of that which should have been disclosed**... A generic term, embracing all multifarious means which human ingenuity can devise, ...**to get advantage over another by false suggestions or by suppression of the truth**...; As distinguished from negligence, **it is always positive, intentional**. It comprises **all acts, omissions, and conceal-ments** involving a breach of a legal **or equitable duty and resulting in damage to another**. And includes **anything calculated to deceive**, whether it be a single act **or combination of circumstances**, whether the **suppression of truth or the suggestion of what is false, whether it be direct falsehood or by inuendo**, by speach or **by silence**, by word of mouth, **or by look or gesture**." [Black's Law Dictionary, Abridged Sixth Edition, 8th reprint-1988]

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depicted Bishop with swelling on her forehead as evidence of injury caused by Akers [TT#2, C. Bishop, 10/27/98, 09:23:45, 09:24:15, 09:48:55, et. seq.]; **yet, nonetheless**, (v) Bishop **admitted she had never filed an "assault" charge against Akers until initiated by the Fayette County [Kentucky] Grand Jury on November 6, 1995** [TT #2, 09:40:25].

(e) Vaughan testified that: (i) **Bishop did not disclose to him, nor did he inquire as to Bishop's history of any similar problems with her neck** [TT#1, J. Vaughn, 10/26/98, 16:27:40, 16:47:30, 16:53:00]; (ii) **Bishop's X-ray and M.R.I. Reports revealed that she had long-standing "Degenerative Disc Disease"** [id., 16:37:49] **which had been developing over a period of several years prior to May 4, 1994** [id., 16:51:40] and which could have, **in itself, resulted in herniated discs** [id., 16:49:00, 16:50:25, 16:51:15]; (iii) **Bishop's surgery was the result of those herniated discs** [id., 16:31:40, 16:32:10, 16:34:30, 16:36:00; **and that "[he] would say that bending, rotating, twisting of [Bishop's] neck is going to be limited because of the surgery**" [TT#1, J. Vaughan, 10/26/98, 16:43:00, et seq. (emphasis added)].

(f) Fulmer testified that, **upon his initial examination of Bishop on May 16, 1994, "her range of motion appeared to be normal**" [TT #2, A. Fulmer, 10/27/98, 10:55:00, 11:00:20] and

that "**her X-rays were normal**" [TT #2, 10/27/98, 10:55:55].

(g) Layne, under encouragement, guidance, and/or sanction of Bishop, Red Corn and Overstreet, respectively, committed numerous acts of "fraud" including, **but not limited to**, testimony that: (i) Akers had...

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made telephone calls to, among others, Layne, Bishop, and Bishop's attorney in June and July of **1994**; (ii) that those alleged calls were "loud", "threatening", and "alarming" in nature [TT#2, T. Layne, 10/27/98, 11:19:15, et seq. [See also hereinabove paragraphs E-45 & E-46], and (iii) resulted in Layne taking his family on vacation earlier than planned; and (iv) SCC hiring security guards and installing a new security system. (v) Layne now fraudulently further alleges that Akers had appeared at Southland Christian Church at some time **after** May 4, 1994 [TT#2, T. Layne, 10/27/98, 11:46:50 (**see previous testimony of Layne @ TT#2, 05/21/96, 09:32:35, wherein Layne admits that Akers did not appear at Southland Christian Church after May 4, 1994**)]; together with hereinabove paragraphs E-45, E-46, & E-64)].[111] Upon cross-examination, **Layne admits that he had "never heard [Akers'] side of the story**" [TT#2, T. Layne, 10/27/98, 11:33:50]; and (vi) **Overstreet and Red Corn would not allow the jury to view video tapes of Bishop's activities at Southland Christian Church which would have conclusively shown that any allegations of Bishop's "prolonged" impairment to her...**

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[111] **Footnote** [7] [supra, page 13 hereof] **is re-stated herein** the same as if set forth in its entirety. **See also**: TITLE 18 U.S.C. § 1512(b)(2) [supra, page 14 hereof]; and TITLE 42 U.S.C. § 1985(2) & (3) [id., pages 16 & 17 hereof].

[112] See: **K.R.E. 401** [supra, page 40 hereof], i.e., **DEFINITION OF "RELEVANT EVIDENCE"**: "Relevant evidence" means evidence having any tendancy to make the existence of any fact that is of consequence to the determination of the action more probable or less probable than it would be without the evidence."; **K.R.E. 402** [id.], i.e., "All relevant evidence is

admissible, except as otherwise provided by the Constitution of the United States and the Commonwealth of Kentucky, by the acts of the General Assembly of the Commonwealth of Kentucky, by these rules, or..." (continued, page 149...)

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neck were fraudulent [TT#2, T. Layne/M.Radomile/L. Red Corn/R. Overstreet, 10/27/98, 11:37:05, et seq.];[112]

(h) Fleming, under the encouragement, guidance, and/or sanction of Bishop, Red Corn and Overstreet, respectively, committed numerous acts of "fraud"[113] including, **but not limited to**, testimony with respect to Bishop's physical condition, demeanor, and emotional state on the morning of May 5, 1994 [TT#2, D. Fleming, 10/27/98, 13:23:10, et seq.];

(i) Mildred Patrick, under encouragement, guidance, and/or sanction of Bishop, Red Corn, and Overstreet, respectively, committed numerous acts of "fraud"[114] including, **but not limited to**, testimony that: (i) Akers had telephoned her on numerous occasions and "threatened" her and others and that Akers was "gonna do this or gonna do that if [she] didn't tell him where [Bishop] was." [TT#2, M. Patrick, 10/27/98, 13:50:35,

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[112] **K.R.E. 402** (continued from page 148 hereof): "...by other rules adopted by the Supreme Court of Kentucky"; **K.R.E. 404. CHARACTER EVIDENCE AND EVIDENCE OF OTHER CRIMES** [id.]: "**(a) Character Evidence Generally**: Evidence of a persons character is **not admissible** for the purpose of proving action in conformity therewith on a particular occasion, except: (2) *Character of Victim Generally*: Evidence of a pertinent trait of character of the victim of the crime **offered by the accused**...; **K.R.E. 405. METHODS OF PROVING CHARACTER** [id.], i.e., "**(c) Specific Instances of Conduct**. In cases in which character of a person is an essential element of a charge, claim, or defense, **proof may also be made of specific incidents in that person's conduct**." (emphasis added); and **K.R.S. 500.070 Burden of proof; defenses** [supra, page 31 hereof], i.e., "(2) **No Court can require notice of a defense prior to trial time**." (emphasis added)

[113] **Footnote 7** [supra, page 13 hereof] is re-stated herein the same as if set forth in its entirety. **See also**: **TITLE 18 U.S.C. § 1512 (b)(2)** [supra, page 14 hereof]; and **TITLE 42 U.S.C. § 1985(2), (3)** [id., pages 16 & 17 hereof];

[114] Footnote [7] [supra, page 13 hereof] is re-stated herein the same as if set forth in its entirety. See also: **TITLE 18 U.S.C. § 1512 (b)(2)** [supra, page 14 hereof]; and **TITLE 42 U.S.C. § 1985(2), (3)** [id., pages 16 & 17 hereof];

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et seq.]; but then (ii) **admitted that all such calls "stopped about a month or two before [Akers] went to Minnesota [in May of 1994]"** [TT#2, M. Patrick, 10/27/98, 13:53:55]; (iii) M. Patrick then **fraudulently stated that Akers had "showed up" at her home on two occasions after the "Domestic Violence Order" of May 19, 1994, had been entered**. [TT#2, M. Patrick, 10/27/98, 13:59:00];

(j) Bishop's brother, Wendell Patrick, stated that all offensive and/or alarming telephone calls which he had received from Akers occured on "May 27th or 28th until the end of June [1995]", that is, **after expiration of that "Domestic Violence Order" entered May 19, 1994**. [TT#2, W. Patrick, 10/27/98, 14:07:10, 14:08:10];

(k) **Red Corn fraudulently introduced the video-taped testimony of previous prosecution witness Allen Rushing** (from Akers' first trial in May of 1996) [see TT#2, M. Radomile/L. Red Corn/ R. Overstreet, 10/27/98, 14:36:45, et seq., esp. 15:05:40]; and then **further perpetrated her fraud by playing in excess of seventeen minutes (or 74%) of the unedited version thereof for the jury** [TT#2, A. Rushing, 10/27/98, 15:08:40 through 15:26:40]; and Akers' "Motion for Mistrial" was "**OVERRULED**" [id., 15:28:05, 15:52:20];

(l) Dr. Mark Einbecker testified that: (i) upon his initial examination of Bishop on May 17, 1994, "**her range of motion was intact**" [TT#2, M. Einbecker, 10/27/98, 16:24:25] and that he "wasn't sure if [Bishop] was in **physical pain or emotional pain**" (id., 16:26:40); (ii) that subsequent X-rays revealed "that [Bishop] had some **degenerative arthritis that...was of a long-standing nature**" [id., 10/27/98, ...

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16:27:25]; and (iii) **there was "no doubt in [Dr. Einbecker's] mind that [Bishop] had a 'pre-existing condition' and that that pre-existing condition could have caused [Bishop's] herniated discs"** (id., 10/27/98, 16:33:45); &

(m) Akers' then motions for a "Directed Verdict of Acquittal" on the charge of "First Degree Assault" due to the "insufficiency of the evidence" and "First Degree Stalking" due to "insufficiency of the evidence and lack of jurisdiction" were "**OVERRULED**" [TT#2, M. Radomile/L. Red Corn/R. Overstreet, 10/27/98, 16:34:20, et seq.].

VI. DEFENSE PHASE:

(a) Having **fraudulently portrayed Akers to the jury as a perpetual "drunkard" with an inherent propensity for violence and abuse**;

(b) Having already received a **concise preview of the testimony of Akers' defense witnesses to the contrary** as in hereinabove paragraph E-108, **which were intended solely for the purpose of eliciting a "Writ of Prohibition"** from the Kentucky Court of Appeals to prevent a "repeat" of those atrocities in Akers' first trial in May of 1996;

(c) **and being fully-cognizant that such defense testimony would be devastating to their cases against Akers**;

(d) **Overstreet and Red Corn then jointly and overtly effected the furtherance of their conspiracy to deny Akers a fair trial, and acting in concert one with the other** in clear, distinct, and blatant violation of the **of the Kentucky Rules of Evidence** and of all those **superordinate provisions** of the **United States Constitution, United States Codes Annotated, Constitution of Kentucky**, and **Kentucky Revised Statutes** as are...

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hereinafter enumerated;

(e) **fraudulently supressed**[115] **relevant, admissible, and essential testimony of all defense witnesses** by intimidating, threatening, hindering, and otherwise impeding their testimony

[116] in that manner as shown in TT#2, **C. Kirby**/M. Radomile/L. Red Corn/R. Overstreet, 10/27/98, 16:56:45, 17:00:00, et seq.; TT#2, **D. R. Akers**/M. Radomile/L. Red Corn/...

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[115] See: "**Fraud**" defined [footnote [7], supra, page 13 hereof], i.e., "A **false representation of a matter of fact**, whether by words or by conduct, **by false or misleading allegations, or by concealment of that which should have been disclosed**..., by **false suggestions or by suppression of the truth**...; As distinguished from negligence, **it is always positive, intentional**. It comprises **all acts, omissions, and concealments** involving a breach of a legal **or equitable duty and resulting in damage to another**. And includes **anything calculated to deceive**, whether it be a single act **or combination of circumstances**, whether the **suppression of truth or the suggestion of what is false**, whether it be direct falsehood or by inuendo, by speach or **by silence**, by word of mouth, **or by look or gesture**." [Black's Law Dictionary, Abridged Sixth Edition, 8th reprint-1988]

[116] See: **Footnote [81]** [supra, page 102, 104, & 105 hereof] is re-stated herein the same as if set forth in its entirety. **See also**: **K.R.E. 401** [supra, page 40 hereof], i.e., **DEFINITION OF "RELEVANT EVIDENCE"**: "Relevant evidence" means evidence having any tendancy to make the existence of any fact that is of consequence to the determination of the action more probable or less probable than it would be without the evidence."; **K.R.E. 402** [id.], i.e., "All relevant evidence is admissible, except as otherwise provided by the Constitution of the United States and the Commonwealth of Kentucky, by the acts of the General Assembly of the Commonwealth of Kentucky, by these rules, or by other rules adopted by the Supreme Court of Kentucky"; **K.R.E. 404. CHARACTER EVIDENCE AND EVIDENCE OF OTHER CRIMES** [id.], i.e., "**(a) Character Evidence Generally**: Evidence of a persons character is **not admissible** for the purpose of proving action in conformity therewith on a particular occasion, except: (1) *Character of accused*: Evidence of a pertinent trait of character or of the general moral character **offered by the accused** ...; (2) *Character of Victim Generally*: Evidence of a pertinent trait of character of the victim of the crime **offered by the accused**..." (emphasis added); and **K.R.E. 405. METHODS OF PROVING CHARACTER** [id.], i.e., "**(a) Reputation or opinion.** In all cases in which evidence or a trait of character of a person is admissible, proof **may be made** by testimony as to general reputation in the community or by testimony **in the form of opinion**. **(c) Specific Instances of Conduct**. In cases in which character of a person is an essential element of a charge, claim, or defense, **proof may also be made of specific incidents in that person's conduct**." (emphasis added)

R. Overstreet, 10/27/98, 17:14:30, 17:16:20, 17:22:00, 17:22:15, 17:22:30, 17:29:30, 17:31:40, & 17:31:55; TT#2, **A. P. Akers**/M. Radomile/L. Red Corn/R. Overstreet, 10/27/98, 16:56:45, et seq., 18:02:30, 18:06:30; TT#2, **A. W. Akers**, 19:11:40, et seq.; TT#3, W. E. Akers, 09:30:00, 09:38:00, **esp. 09:38:30**, 09:39:45, 09:42:25 & 09:52:35; TT#3, **D. L. Harvil**, 10/28/98, 09:55:15, 10:00:15, 10:03:25, 10:03:50, 10:09:30; and TT#3, **J. G. Akers**, 13:20:00, 13:21:00, 13:32:30, 13:32:45, 13:44:00, 13:49:10, and **more specifically including, but not limited to**: (i) Overstreet and Red Corn suppressed the testimony of Akers' brother, Dennis R. Akers, ***et al***, with respect to specific incidents of Akers' conduct which was **clearly relevant and amissible pursuant to K.R.E. 401, 402, 404(a)(1) & (2), 405(c)**; and (ii) Overstreet, upon the objection and argument by Red Corn, instructed defense witness, Deborah L. Harvil, and **several** defense witnesses that they "**[could not] testify as to anything that was said by anyone other than [Bishop]**" **(e.g., about Bishop's pre-xisting neck/back condition), or with respect to Akers' emotional state during the period of time of the alleged "stalking"**; &

(f) Overstreet and Red Corn would not allow the jury to see video tapes of Bishop's activities at Southland Christian Church which would have shown that allegations of Bishop's "prolonged" impairment to her neck as the result of any conduct of Akers were fraudulent[117] [TT#2, T. Layne/M.Radomile/L. Red Corn/R. Overstreet, 10/27/98, ...

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[117] **Hereinabove footnote [116]** is re-stated herein the same as if set forth in its entirety.

11:37:05]; &

(g) **Overstreet and Red Corn suppressed the introduction of Akers' telephone records encompassing the entire period of time of the alleged stalking and beyond**[118] and which prove that **Fayette [Kentucky] Circuit Court did not, in fact, have either "'personal' or 'subject matter' jurisdiction" over Akers with respect to any "stalking" charge** [TT#3, J. G.

Akers, M. Radomile/L. Red Corn/R. Overstreet, TT#3, 14:20:25, 14:21:30, 14:22:00, & 15:04:30].

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[118] **Hereinabove footnote** [116] is re-stated herein the same as if set forth in its entirety. See also: **K.R.S. 500.070 Burden of proof; defenses** [supra, page 32 hereof], i.e., "(2) No Court can require notice of a defense **prior to trial time**." (emphasis added); **UNITED STATES CONSTITUTION**: **ARTICLE I - SECTION 9** [supra, page 5 hereof], i.e., "[1.] The **migration** or importation of such persons as any of the states...shall think proper to admit, **shall not be prohibited**...; [3.] "No bill of attainer or ***ex post facto* law** shall be passed." (emphasis added); **ARTICLE I-SECTION 10** [id], i.e., "[1.] **No state shall...pass any** bill of attainer, ***ex post facto* law**, or law impairing the obligation of contracts, or grant any title of nobility." (emph. added); corresponding footnote [1] "**Ex post facto law**" defined: "A law passed **after the occurrence of a fact or commission of an act**, which retrospectively changes the legal consequences or relations of such fact or deed. A law is **unconstitutionally** **"ex post facto"** if it deprives a defendant of a defense to criminal liability that he had prior to enactment of the law. State v. Rogers, Ohio Com.Pl., 346 N.E.2d 352, 361. Art. I, § 9(CL3) and § 10 of U.S. Const. prohibit both Congress and the states from passing any ex post facto law. An ex post facto law is defined as a law which provides for the infliction of punishment upon a person for an act done which, when it was committed, was innocent; **a law which aggravates a crime or makes it greater than when it was committed**; **a law that changes the punishment or inflicts a greater punishment than the law annexed to the crime when it was committed**; **a law that changes the rules of evidence** and receives less or different testimony than was required at the time of the commission of the offense in order to convict the offender; **a law which deprives persons accused of a crime of some lawful protection to which they have become entitled**, such as protection of a former conviction or acquittal...; **every law which**, in relation to the offense or consequences, **alters the situation of a person to his disadvantage**. Wilensky v. Fields, Fla., 267 So.2d 1, 5." [Black's Law Dictionary, Sixth Edition, 12th Reprint-1998 (emph. added)]; **ARTICLE IV-SECTION 2** [id.], i.e., "[1.] The citizens of each state shall be entitled to **all privileges and immunities** of citizens in the several states"; [2.] "A person charged **in any state** with...felony, or other crime, **who shall flee from justice**, and be found in another state,..." (continued, page 155 hereof)

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[118] **ARTICLE IV-SECTION 2** (cont'd from page 154 hereof): "...shall be delivered up, to be removed to the state having jurisdiction of the crime." (emphasis added) and corresponding footnote [2], i.e., "**Interstate extradition** involves a significant restraint of liberty and, as such, **necessitates a showing**

of probable cause." Wellington v. State of S.D., D.C.S.D.1976, 413 F.Supp., 151. (emphasis added); Walton v. State, 1977, 566 P.2d 765, 98 Idaho 422; "**Probable cause** to find that a person to be extradited is a **fugitive from justice** in demanding state is a **condition precedent to valid extradition**." Ross v. Hegstrom, **1969, 254 A.2d 556, 107 Conn. 403** (emphasis added); "**In determining whether a party named in a requisition and rendition warrant is a fugitive from justice, a finding must be made** in substance that a crime is alleged, **that the named party committed the crime and fled from the demanding jurisdiction, and it must appear that accused was within the demanding state when crime was committed** so as to constitute him a fugitive by his commission of crime and his **later flight**." State v. Phillips, **1960,162 A.2d 113, 62 N.J.Super. 70, affirmed 167 A.2d 175, 34 N.J. 63** (emphasis added); "In extradition proceedings, inquiry is restricted to whether accused is substantially charged with crime in the demanding state, **and whether he was physically in the demanding state at time crime charged is alleged to have been committed**." People v. ex rel. Johnson v. Ruthazer, **1951, 102 N.Y.S.2d 39, 198 Misc. 1044, affirmed 105 N.Y.S.2d 394, 278 App.Div. 905** (emphasis added); Clayton v. Wichael, **1966, 141 N.W. 2d 538, 258 Iowa 1037**; Wigehert v. Lockhart, **1946, 166 P.2d 988, 114 Colo. 485; Ex parte Foster, 1936, 61 P.2d 37, 60 Okla.Cr. 50**; "**No person may be lawfully removed from one state to another** by virtue of this [Sec. 2, cl. 2], **unless ...; 2. He has fled from justice**; ..., and **if either of these conditions are absent, the Constitution affords no warrant for** a restraint of the liberty of **any person**." Pierce v. Creecy, **Mo. 1908, 28 S.Ct. 714, 210 U.S. 387, 52 L.Ed. 1113**; Ex parte Morgan, **D.C.Cal. 1948, 78 F.Supp. 756, affirmed 175 F.2d 404, certiorari denied 70 S.Ct. 76, 338 U.S. 827, 94 L.Ed. 503**; "**Under this [Sec. 2, cl. 2] and Federal Extradition Act, 18 U.S.C.A.** former § 662 [now **§§ 3182, 3195**], **an extradition is unwarranted unless the accused is a fugitive from justice, and a 'fugitive from justice' is a person who commits a crime within a state and withdraws himself from such jurisdiction** without waiting to abide the consequences of his act". Ex parte Montoya, **1943, 135 P.2d 281, 170 Or. 499.** (emphasis added); **FIRST AMENDMENT** [id, page 7 hereof], i.e., "Congress shall make no law respecting...religion, or prohibiting the free exercise thereof; **or abridging freedom of speech...**"; (emphasis added); **FOURTH AMENDMENT** [id.], i.e., "The right of the people to be secure in their **persons**, houses, papers, and effects, against unreasonable searches and **seizures**, shall not be violated, and **no Warrants shall issue, but upon probable cause**" (emph. added); **SIXTH AMENDMENT** [id., page 8 hereof], i.e., "In **all criminal prosecutions**, the accused shall enjoy the right to a speedy and public trial, **by an impartial jury** of the **State...wherein the crime shall have been committed**..."; (emphasis added); **FIFTH AMENDMENT** [id.], i.e., "No person shall **be held** to answer for ...infamous crime...**nor be deprived of**... **liberty**, or property, **without due process of law**" (emphasis added) and corresponding footnote [5] "Due process of law" defined: "Law in its regular course of administration through courts of justice. ...Due process of law implies the right of the person affected thereby to be present before the tribunal which pronounces judgement upon the question of life, liberty, or property, in its most comprehensive sense; ..." (continued, page 156 hereof)

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[118] **FOURTH AMENDMENT** (continued from page 155 hereof): "...to be heard, by testimony or otherwise, and to have the right of controverting every material fact which bears on the question of right in the matter involved. **If any question of fact or liability be conclusively presumed against him, this is not due process of law**. An orderly proceeding wherein a person is **served with notice**, actual or constructive, and **has an oppor-tunity to be heard and to enforce and protect his rights** before a court having power to hear and determine the case. ...**The concept of 'due process of law' as it is embodied in the Fifth Amendment demands that a law shall not be unreasonable, arbitrary, or capricious**... U. S. v. Smith, D.C. Iowa, 249 F.Supp. 515, 516. Fundamental requisite of 'due process' is the opportunity to be heard, to be aware that a matter is pending, to make an informed choice whether to acquiesce or contest... Trinity Episcopal Corp. v. Romney, D.C.N.Y., 387 F.Supp. 1044, 1084. **Aside from all else, 'due process' means fundamental fairness and substantial justice**. Vaughn v. State, 3 Tenn. Crim. App. 54, 456 S.W.2d, 879, 883. Embodied in the due process concept are the basic rights of a defendant in criminal cases and the requisites for a fair trial. These rights and requirements have been expanded by Supreme Court decisions and include, timely notice of a hearing or trial which informs the accused of the charges against him or her; **the opportunity to confront accusers and to present evidence on one's own behalf before an impartial jury or judge**; the presumption of innocence under which **guilt must be proven** by legally obtained evidence and **the verdict must be supported by the evidence presented**; ...and **the guarantee that an individual will not be tried more than once for the same offense (double jeopardy)**." [Black's Law Dictionary, Sixth Edition, 12th Reprint-1998 (emphasis added)]; **FOURTEENTH AMENDMENT** [id., page 10 hereof], i.e., "**All persons** born or naturalized in the United States, and subject to the jurisdiction thereof, are **citizens of the United States** and of the **State wherein they reside**. **No State** shall make or enforce **any law** which shall abridge the privileges or immunities of citizens of the United States; **nor shall any state deprive any person of life, liberty, or property, without due process of law**; nor deny any **person within its juris-diction equal protection of the laws**" (emphasis added); **TITLE 18 U.S.C. § 2261. Interstate domestic violence**: (a) **Offenses. - (1) Crossing a State Line.-** [supra, page 15 hereof], i.e., "A person who **travels** across a State line...**with intent** to injure, harass, or intimidate that person's spouse or intimate partner, **and** who, in the course of or as a result of such travel, **intentionally commits a crime of violence and thereby causes bodily injury** to such spouse or intimidate partner, shall be punished as provided in subsection (b)." (emphasis added); **TITLE 18 U.S.C. § 2261A. Interstate stalking** [id.], i.e., "Whoever **travels** across a State line or within the... territorial jurisdiction of the United States **with the intent** to injure or harass another person, **and** in the course of, or as a result of, **such travel** places that person in reasonable fear of the death of, or serious bodily injury (as defined in section 1365(g)(3) of this title) to, that person or a member of that person's immediate family (as defined

in section 115 of this title) shall be punished as provided in section 2261 of this title." (emph. added); **TITLE 18 U.S.C. § 2262. Interstate violation of protection order: (a) Offenses. - (1) Crossing a State line. -** [id., pages 15 & 16 hereof], i.e., "A person who travels across a State line...with the intent to engage in conduct that - **(A)(i)** violates the portion of a protective order that involves protection against credible..." (continued, page 157 hereof)

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VIII. JURY INSTRUCTIONS:

(a) Overstreet fraudulently and unconstitutionally instructed the jury as to the definition of "dangerous instrument", i.e., "hands and feet" as "dangerous instruments". [see TT#4, R. Overstreet, 10/28/98, 15:58:30][119]

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[118] **TITLE 18 U.S.C. § 2262** (continued from page 156 hereof): "...threats of violence, repeated harassment, or bodily injury to the person or persons for whom the protection order was issued; or (ii) would violate this paragraph if the conduct occurred in the jurisdiction in which the order was issued; **and (B) subsequently engages in such conduct**, shall be punished as provided in subsection (b)." (emph. added); **TITLE 18 U.S.C. § 2265. Full faith and credit given to protection orders: (a) Full faith and credit. -** [id.], i.e., "Any protection order issued **that is consistent with subsection (b) of this section** by the court of one State...(the issuing State...) shall be accorded full faith and credit by the court of another State ...(the enforcing State ...) and enforced as if it were the order of the enforcing State...(b) Protection order. - A protection order issued by a State...**is consistent with this subsection if-** (1) such court has **jurisdiction over the parties** and matter under the law of such State...; **and** (2) **reasonable notice and opportunity to be heard is given** to the person against whom the order is sought sufficient **to protect that person's right to due process**. In the case of ex parte orders, **notice and opportunuty to be heard must be provided** within the time required by State...law, and **in any event within a reasonable time** after the order is issued, sufficient **to protect respondent's due process rights**." (emphasis added); **CONSTITUTION OF TENNESSEE: ARTICLE 1, SECTION 3. Freedom of worship** [supra, page 18 hereof], i.e., "That all men have a natural and indefeasable right to worship Almighty God to the dictates of their own conscience; **that no human authority can, in any case whatsoever, control or interfere with the rights of conscience.**" (emphasis added); **ARTICLE 1, SECTION 8. No man to be disturbed by law** [id.], i.e., "That **no man shall be taken or imprisoned, or disseized of his free-hold, liberties or privileges**, outlawed, **or exiled or in any manner destroyed or deprived of his life, liberty, or property, but by the judgement of his peers or the law of the land**." (emph. added); **Ky Const § 1 [page 26 hereof], i.e., "Rights of life,**

liberty, worship, pursuit of safety and happiness, free speech, acquiring and protecting property, ...redress of grievances, bearing arms: "**All men** are, by nature, free and equal, and **have certain inherent and inalienable rights**, among which may be reckoned: ... **Second**: The right of worshipping Almighty God **according to the dictates of their consciences**; ...**Fourth**: The right of **freely communicating their thoughts and opinions** (emph. added); and **T.C.A. 39-17-308. Harassment.** - [id., page 21 hereof], i.e., "(a) A person commits an offense who **intentionally**: (2) **Places one (1) or more telephone calls ...in an offensively repetitous manner, or without a legitimate purpose of communication, and by this action knowingly annoys or alarms the recipient**; (b) **A violation of this section is a Class A misdemeanor**." (emphasis added)

[119] **See**: **K.R.S. 508.010** [supra, page 34 hereof] and footnote [36] thereto.

IX. CLOSING ARGUMENTS:

(a) Red Corn, under the sanction of Overstreet, intentionally and fraudulently "tampered with the jury" with respect to the probative value, admissibility, and relevance of Akers telephone calls in hereinabove paragraphs E-65 through E-68, and E-110.V(c), (g), (i), & (j) by **suppressing Radomile's correctly stated closing arguments that such evidence should not be considered** as proof with respect to Akers' guilt on the "stalking" charge, **especially inasmuch as Overstreet again refused to properly admonish the jury** in accordance with the hereinabove **"Opinion"** by the Kentucky Court of Appeals in reversing Akers' first conviction. [TT#4, M. Radomile/L. Red Corn/R. Overstreet, 10/28/98, 16:29:20, et seq.][120];

(b) Red Corn intentionally "tampered with the jury" by fraudulently asserting that "**the instructions are the law**", **notwithstanding that the same were both fraudulent and unconstitutional**.[121] [TT#4, L. Red Corn, 10/28/98, 17:03:20];

(c) Red Corn fraudulently "tampered...

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[120] See hereinabove paragraph E-96(c) and footnote [102] thereto; hereinabove paragraph E-104 and footnote [105] thereto; and **TITLE 42 U.S.C. § 1985** [supra, page 16 hereof] and footnotes [10], [11], [12] thereto [id, page 17 hereof]

[121] See: "Fraud" defined [footnote [7], supra, page 13 hereof], i.e., "A **false representation of a matter of fact**, whether by words or by conduct, **by false or misleading allegations, or by concealment of that which should have been disclosed**..., by **false suggestions or by suppression of the truth**...; As distinguished from negligence, **it is always positive, intentional**. It comprises **all acts, omissions, and concealments** involving a breach of a legal **or equitable duty and resulting in damage to another**. And includes **anything calculated to deceive**, whether it be a single act **or combination of circumstances**, whether the **suppression of truth or the suggestion of what is false**, whether it be direct falsehood or by inuendo, by speach or **by silence**, by word of mouth, **or by look or gesture**." [Black's Law Dictionary, Abridged Sixth Edition, 8th reprint-1988]; **K.R.S. 508.010** [supra, page 34 hereof] and footnote [36] thereto; U.S. CONSTITUTION: ..." (continued, page 159 hereof)

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with the jury" by asserting her fraudulent and unconstitutional definition of "hands and feet" as "dangerous instruments".[122] [TT#4, L. Red Corn, 10/28/98, 17:05:10];

(d) Red Corn further intentionally and fraudulently misled the jury with respect to the definition of "intentionally" as an element of "First degree assault" [TT#4, L. Red Corn, 10/28/98, 17:05:10]; (e) Red Corn intentionally and fraudulently misled the jury with respect to the definition of "intentionally" as an element of "First degree assault" [TT#4, L. Red Corn, 10/28/98, 17:08:10];

(f) Red Corn...

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[121] U.S. CONSTITUTION: (continued from page 158 hereof): "... **ARTICLE I-SECTION 10** [id], i.e., "[1.] **No state shall...pass any** bill of attainer, ***ex post facto* law**, or law impairing the obligation of contracts, or grant any title of nobility." (emphasis added); corresponding footnote [1] "Ex post facto law" defined: "A law passed **after the occurrence of a fact or commission of an act**, which retrospectively changes the legal consequences or relations of such fact or deed. A law is **unconstitutionally "ex post facto"** if it deprives a defendant of a defense to criminal liability that he had prior to enactment of the law. State v. Rogers, Ohio Com.Pl., 346 N.E.2d 352, 361. Art. I, § 9(CL3) and § 10 of U.S. Const. prohibit both Congress and the states from passing any ex post facto law. An ex post facto law is defined as a law which provides for the infliction of punishment upon a person for an act done which, when it was committed, was innocent; **a law which aggravates a crime or makes it greater than when it was**

committed; a law that changes the punishment or inflicts a greater punishment than the law annexed to the crime when it was committed; a law that changes the rules of evidence and receives less or different testimony than was required at the time of the commission of the offense in order to convict the offender; **a law which deprives persons accused of a crime of some lawful protection to which they have become entitled**, such as protection of a former conviction or acquittal ...; **every law which**, in relation to the offense or consequences, **alters the situation of a person to his disadvantage**. Wilensky v. Fields, Fla., 267 So.2d 1, 5." [Black's Law Dictionary, Sixth Edition, 12th Reprint-1998 (emph. added)]; **ARTICLE IV-SECTION 2** [id.], i.e., "[1.] The citizens of each state shall be entitled to **all privileges and immunities** of citizens in the several states" (emph. added); and **TITLE 42 U.S.C. § 1985. Conspiracy to interfere with civil rights** [supra, page 16 hereof] and footnotes [10, 11, 12] thereto [id, page 17 hereof]

[122] **Hereinabove footnote** [121] is re-stated herein the same as if set forth in its entirety. **See also**: **K.R.S. 508.010** [supra, page 34 hereof] and corresponding footnote [36] thereto.

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intentionally and fraudulently misled the jury with respect to the definition of "serious physical injury"[123] and the "causative connection" as elements of Akers' "First degree assault" charge. [TT#4, L. Red Corn, 10/28/98, 17:21:45, et seq.];

(g) Red Corn intentionally and fraudulently misled the jury with respect to the definition of "Assault in the first degree"[124] [TT#4, L. Red Corn, 10/28/98, 17:23:10, et seq.];

(h) Red Corn intentionally and fraudulently confused the jury with respect to the charges for which Akers was on trial by making references to fraudulent "subsequent/other bad acts" alleged to have been committed by Akers and which, **even had they been true, would have been completely irrelevant** to Akers' indicted charge of "First degree stalking"[125] [TT#4, L. Red Corn, 10/28/98, 17:31:05, et seq.];

(i) Red Corn further capitalized on her fraudulent introduction of evidence as detailed in hereinabove paragraph E-31 and E-110.V(c)(1) and corresponding footnote [108], and then fraudulently misrepresenting the facts with respect thereto [TT#4, L. Red Corn, 10/28/98, 17:35:25, et seq.]; and

(j) Red Corn intentionally and fraudulently misled the

jury with respect...

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[123] Hereinabove footnote [121] is re-stated herein the same as if set forth in its entirety. See also: **K.R.S. 508.030** [supra, page 34 hereof] and corresponding footnote [37] thereto.

[124] Hereinabove footnote [121] is re-stated herein the same as if set forth in its entirety. See also: **K.R.S. 508.010** [supra, page 34 hereof] and corresponding footnote [36] thereto.

[125] Hereinabove footnote [121] is re-stated herein the same as if set forth in its entirety. See also: **K.R.S. 508.140** [supra, page 34 hereof] and corresponding footnote [38] thereto.

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to the time period "First Degree stalking" charge **in violation of the doctrines of *res judicata* and/or double jeopardy** [TT#4, L. Red Corn, 10/28/98, 17:44:50.

X. *PENALTY PHASE*:

(a) Red Corn, under sanction of Overstreet, "tampered with the jury" by, ***inter alia***, misleading them with respect to "parole eligibility" guidelines [TT#4, L. Red Corn/R. Overstreet, 10/28/98, 18:30:00]; and

(b) Red Corn, with the guidance and sanction of Overstreet, fraudulently introduced evidence to the jury to the effect that Akers had previously been convicted of "Assault in the first degree" [TT#4, L. Red Corn/R. Overstreet, 10/28/98, 18:31:20] and, thereby, further "tampered with the jury" with an overt attempt to improperly influence the jurors with respect to Akers' sentencing.[126]

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[126] See: "**Tampering with jury**" (footnote [8] hereof), i.e., "...The act of attempting to influence a juror corruptly by...persuasions, entreaties, ...or **any other means except the production of evidence in open court**. *See e.g.* 18 U.S.C.A § 1503, 1504." [Black's Law Dictionary, Abridged Sixth Edition, 8th reprint-1988

(emphasis added)]. **See also**: "**Tamper**" (footnote 9 hereof): "To meddle so as to alter a thing, especially to make illegal, **corrupting or perverting changes**" [id.]; **K.R.E. 103. RULINGS ON EVIDENCE** [supra, page 39 hereof], i.e., "(c) **Hearing of Jury. In jury cases, proceedings shall be conducted**, to the extent practicable, **so as to prevent inadmissible evidence from being suggested to the jury by any means, such as making statements** or offers of proof or asking questions **in the hearing of the jury**." (emphasis added); **K.R.E. 404. CHARACTER EVIDENCE AND EVIDENCE OF OTHER CRIMES**: "**(a) Character Evidence Generally** [id., page 40 hereof], i.e., **Evidence of a persons character is not admissible** for the purpose of proving action in conformity therewith on a particular occasion, **except**: (1) *Character of accused*: Evidence of a pertinent trait of character or of the general moral character **offered by the accused**...; **(b) Other Crimes, Wrongs, or Acts**. Evidence of other crimes, wrongs, or acts **is not admissible** to prove the character of a person in order to show action in conformity therewith. ...**(c) Notice Requirement**. In a criminal case, if the prosecution intends to introduce evidence pursuant to subdi-vision (b) of this rule as a part of its case in chief, it **shall give reasonable**..." (continued, page 162 hereof)

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111. On October 28, 1998, Akers was **again** convicted in the Fayette Circuit Court on one (1) count each of "First Degree Assault" and "First Degree Stalking", as indicted, and the jury then recommended sentences of ten (10) years and one (1) year, respectively, **to be served concurrently**, for a total sentence of ten (10) years imprisonment.

112. (a) November 23, 1998, **Akers was again haled before Overstreet for "Final Sentencing"** [see Exhibit "WWW" hereto]; (b) Akers' "Motion to Proceed Pro Se", and "Motion for Mistrial/New Trial" pursuant to [the Kentucky Rules of Court] **CR 59.03, K.R.E. 401** in conjunction with **K.R.E. 402** and **K.R.E. 404(2)**" were "**OVERRULED**" by Overstreet [CP#1, R. Overstreet, 11/23/98, 10:17:15, et seq.]; (c) Overstreet then imposed **her "final sentence" of ten years for Count One (i.e., "First degree assault" and one year for Count Two (i.e., "First degree stalking")**, respectively, **to be served concurrently** [CP#1, R. ...

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[126] **K.R.E. 404(b)** (continued from page 161 hereof): "... **pretrial notice to the**

defendant of its **intention** to offer such evidence. **Upon failure of the prosecution to give such notice the court may** exclude the evidence offered under subdivision (b) or for cause shown may excuse the failure to give such notice and **grant the defendant a continuance or such other remedy as necessary to avoid unfair prejudice caused by such failure.**" (emph. added); **K.R.E. 1101. APPLICABILITY OF RULES** [id.], i.e., "**(a) Courts**. These rules apply to **all the courts of this Commonwealth in the actions, cases, and proceedings** and to the extent herein-after set forth. ...**(c) Rules on Privileges**. The rules with respect to **privileges apply at all stages of all actions, cases, and proceedings**." (emphasis added); **in conjunction with U.S. Const. Amend. 5** [supra, page 7 hereof], i.e, "No person shall...**be deprived of**...**liberty**, or property, **without due process of law.**" (emphasis added); and **U.S. Const. Amend. 14** [id., page 10 hereof], i.e., "**No State** shall...deprive **any person of life, liberty, or property, without due process of law**." (emphasis added); and **TITLE 42 U.S.C. § 1985. Conspiracy to interfere with civil rights** [supra, page 16 hereof] and footnotes [10, 11, 12] thereto [id, page 17 hereof].

Overstreet, 11/23/98, 10:16:29, et seq.], stating as her reasons therefor, that: (i) "the court believes there is a substantial risk that [Akers] would commit another crime"; (ii) "due to [Akers] prior record"; (iii) "due to [Akers'] 'alcoholism'; (iv) "due to [Akers] position of trust **at time of the trial** (sic) **crime**"; (v) "due to the violent..., dangerous..., deliberate nature of the crime"; & (vi) "due to what the court perceives as a very 'anti-social attitude'"[127]; and (d) **again denied Akers' "Motion for Bail on Apeal" in the amount of "$7,500 Full Cash"** as in hereinabove paragraphs E-82, E-83 & corresponding footnote [82] thereto, E-90 & corresponding footnote [95] thereto, E-92, E-93, E-96, E-99 & corresponding footnote [103] thereto. [CP#1, J. Akers/M. Radomile/K. Overstreet, 11/23/98, 10:16:29, et seq.]

113. **Having been denied any "Bail on Appeal" by Overstreet** [see hereinabove paragraph E-113(d)]; (a) on January 18, 1998, Akers filed his "Application for Bond Pending Appeal" [Exhibit "XXX" hereto] with the Kentucky Court of Appeals pursuant to **RCr 12.82** citing substantial bases for the granting thereof including, **but not limited to**: (i) that **[Overstreet] had, for all intents and purposes, ignored the Court of Appeals Opinion which reversed Akers' prior convictions** for the same charges and under the same indictment [id., paragraphs 1 thru

4]; (ii) that...

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[127] Overstreet's allegations are **simply not suppported by the facts**, and **further demonstrate all of Akers' hereinabove assertions with respect to, *inter alia*, Overstreet's bias, tyranny, and oppression. See also: U.S. Const. Amendment 14** [id., page 10 hereof]; and, ***inter alia***, hereinabove paragraphs E-82 through E-86, E-90, E-94 through E-98, E-104, E-103 through E-112 together with the hereinafter paragraphs E-119 through E-123.

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there was a "substantial liklihood" that Akers' conviction for "First Degree Assault" would again be reversed as a result of Overstreet's such acts of contempt [id., paragraphs 5 & 6]; (iii) that there was a "real possibility" that Akers had already served in of excess any sentence which would likely stand [id., parapraph 7]; (iv) that Akers' prior criminal record was all but negligable [id., paragraph 8]; (v) there was no evidence whatsoever to allege or suspect that Akers would be a threat to anyone [id., paragraphs 9 & 10]; and (vi) there was no basis to allege or even suspect that Akers would fail to appear at any court proceedings [id., paragraph 11].

114. On March 8, 1994, Akers' said "Application for Bond Pending Appeal" [Exhibit "XXX"] was "**DENIED**" by the Kentucky Court of Appeals for no stated reasons [Exhibit "YYY" hereto].

115. On July 30, 1999, the Assistant Attorney General for Kentucky, Todd D. Ferguson (hereinafter "Ferguson"), performed his "chain-like" function[128] in furtherance of those conspiracies as outlined in hereinabove paragraphs A-2, A-3(f), E-12 thru E-14, E-16, E-24, E-35, E-36, E-38, E-40 thru E-45, E-47 thru E-49, E-50(a), (d), (e), & (f), E-56(a), (b), & (e), E-61, E-64 thru E-67, E-72 thru E-77, E-81 thru E-96, E-99, E-103, E-104, E-107, E-108, E-110 thru E-115, together with all corresponding footnotes thereto, by filing and serving his "Brief for Appellant" [Exhibit "ZZZ"], and **attempting** to...

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[128] **See: TITLE 42 U.S.C. § 1985. Conspiracy to interfere with civil rights** [supra, page 16 hereof] and footnotes [10], [11], & [12] thereto [id, page 17 hereof]

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mislead the Kentucky Court of Appeals in presenting **totally unfounded, unsupported, and/or outright fraudulent** "Counter-statements of Facts" including, **but not limited to**:

(a) that "[Akers] grabbed [Bishop] by the hair of the head and began hitting and kicking her. He dragged her by the hair into the hall, where he threw her against the wall and continued to hit her in the face and kick her legs. The impact of her head as it hit the wall caused an indention the size of a basketball in the drywall." [page 2, lines 7 thru 11; page 11, lines 21 thru 25] "[Bishop's] lip was busted swollen and bleeding." [id, lines 15 & 16];

(b) "Prior to the assault of May 4, 1994, Bishop had no history of neck or back problems." [page 5, lines 4 & 5; Page 11, lines 26 thru 29];

(c) "...it was [Dr. Vaughn's] expert medical opinion that [Bishop's] disks [had] ruptured as a result of the incident that occurred on May 4, 1994." [id, lines 14 & 15];

(d) In early June [1994], ...[Akers] began calling Bishop at work, calling her parents, her priest, her divorce attorney, her two brothers, and her boss." [id, lines 19 thru 21];

(e) "...evidence concerning the events that transpired on May 4, 1994, together with medical evidence...was sufficient to establish that [Akers'] intentional acts caused Bishop to suffer a 'serious physical injury' [page 12, line 23 thru page 13, line 3]; "II. THE TRIAL COURT DID NOT ABUSE ITS DISCRETION IN ADMITTING INTO EVIDENCE [AKERS' ALLEGED] PRIOR ACTS OF VIOLENCE AND ABUSE OF BISHOP" [id, lines 3 thru 7];

(f) "Here, in the original appeal, [the Kentucky Court of Appeals] held...

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that the prior bad acts evidence was relevant and probative with regard to the stalking charge." [page 17, lines 7 & 8];

(g) "...the evidence of acts which occurred after expiration of the DVO in May 1995, ...were admissible as evidence of KRE 404(b) to show intent." [id., lines 18 thru 21];

(h) "The trial court did not abuse its discretion in allowing said evidence in at trial." [page 18, lines 7 & 8]; and

(i) "The doctrine of law of [this] case would seem to preclude [Akers] from arguing on retrial that the two charges should have been severed (sic)." [page 22, lines 17 thru 19].[129]

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[129] See: **TITLE 18 U.S.C. § 1503. Influencing or injuring officer or juror generally** [supra, page 13 hereof], i.e., "(a) Whoever **corruptly...endeavors to influence or impede any** grand or petit juror, or **officer in or of any court of the United States, ...or endeavors to influence, obstruct, or impede, the due administration of justice,** shall be punished as provided in subsection (b)." (emph. added); **TITLE 42 U.S.C. § 1983. Civil action for deprivation of rights**: [id., page 16 hereof], i.e., "**Every person** who, **under color of any statute,** ordinance, custom, or usage, **of any State** or Territory or the District of Columbia, **subjects, or causes to be subjected, any citizen of the United States** or other person within the jurisdiction thereof **to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws,** shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress" (emphasis added); **TITLE 42 U.S.C. § 1985. Conspiracy to interfere with civil rights** [id.] (2) If **two or more persons in any State** or Territory or the District of Columbia **conspire**...for the purpose of impeding, hindering, obstructing, or defeating, **in any manner, the due course of justice in any State or Territory, with the intent to deprive any citizen...equal protection of the laws,** or to injure him or his property for lawfully enforcing, or **attempting to enforce,** the right of any person, or class of persons, to the equal protection of the laws; (3) ...**in any case of conspiracy** set forth in this section, **if one or more persons** engaged therein **do, or cause to be done, any act in furtherance of the object of such conspiracy,** whereby another is injured in his person **or property, or deprived of having and exercising any right or privilege** of a citizen of the United States, the party so injured or deprived may have an action for the recovery of damages occasioned by such injury or deprivation, against one or more of the conspirators." (emphasis added); and **"Fraud" defined**: "...A generic term, embracing all multifarious means which human ingenuity can devise, ...**to get advantage over another by false suggestions or by suppression of the truth.** ..." (continued, page 167 hereof)

116. **Having <u>again</u> been denied <u>any form of</u> bail on appeal,**[130] on June 22, 1999, Akers filed his petition for "Writ of Habeas Corpus" with the United States District Court, Eastern District of Kentucky, citing substantial grounds for issuance thereof and immediate release thereon. [see Exhibit "AAAA" hereto]

117. On August 30, 1999, Ferguson continued in his "chain-like" function in furtherance of those conspiracies as outlined in hereinabove paragraphs A-2, A-3(f), E-12 thru E-14, E-16, E-24, E-35, E-36, E-38, E-40 thru E-45, E-47 thru E-49, E-50(a), (d), (e), & (f), E-56(a), (b), & (e), E-61, E-64 thru E-67, E-72 thru E-77, E-81 thru E-96, E-99, E-103, E-104, E-107, E-108, and E-110 thru E-115, and with all corresponding footnotes thereto, by filing and serving his "Answer and Response..." thereto [see Exhibit "BBBB"], and fraudulently asserting[131], ***inter alia***, that:

(a) "A state prisoner has no absolute federal right to bail pending appeal." [page 4, "Memorandum of Law", lines 2 & 3]; <u>and</u>

(b) "...the trial court exercised its sound discretion in...

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[129] <u>"Fraud" defined</u> (continued from page 166 hereof): "... As distinguished from negligence, **it is always positive, intentional**. It comprises **all acts, omissions, and concealments** involving a breach of a legal **or equitable duty and resulting in damage to another**. And includes **anything calculated to deceive**, whether it be a single act **or combination of circumstances**, whether the **suppression of truth or the suggestion of what is false**..." [Black's Law Dictionary, Abridged Sixth Edition, 8th reprint-1988]

[130] See hereinabove paragraphs E-90 and corresponding footnote [95] thereto, E-92, E-93, E-99 and corresponding footnote [103] thereto, E-113(d), <u>and</u> E-114.

[131] Hereinabove paragraph E-90 together with corresponding footnote [96] thereto are re-stated herein the same as if set forth in their entirety. <u>**See also**</u>: **Ky Const 15. Laws to be suspended only by General Assembly** [supra, page 27 hereof], i.e., "**No power to suspend laws shall be exercised <u>unless by the General Assembly</u> or its authority.**" (emphasis added)

denying [Akers] bail on appeal and **it cannot be said that the trial court abused its discretion**."[132] [id., lines 9 thru 11].

118. (a) On April 13, 2000, Akers was transported back to "Domestic Relations/Domestic Violence Division" of Fayette [Kentucky] District Court for the **ludicrous purpose of, once again, allowing Bishop to be granted yet another three-year "extension"** of that "Domestic Violence Order" as detailed in hereinabove paragraphs E-32, E-38, & E-65. (b) Notwithstanding Akers **clearly-stated eternal willingness to have "no contact or communication" with Bishop and "to remain as far away from her as possible (i.e., in a different state)"**; & (c) Akers' **simple request** that the "**CAUTION: 'Weapon involved'** [and] **'Believed to be armed/dangerous'" be deleted therefrom**; (d) Fayette District Judge Pamela D. Goodwine nevertheless **issued Bishop's requested "Domestic Violence Order" effective through April 13, 2000** [see Exhibit "CCCC" hereto], **and ignored Akers' pleas** to not further "defame [his] character" and "endanger [his] safety" by alleging those "Cautions" detailed in hereinabove subparagraph (c).[133]

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[132] **See (in stark contrast)**: Hereinabove paragraphs E-82 through E-86, E-90, E-94 through E-98, E-104, E-108 through E-113 together with all corresponding footnotes thereto, respectively; and hereinafter paragraphs E-121 through E-125 together with all corresponding footnotes thereto, respectively.

[133] Hereinabove paragraph E-90 together with corresponding footnote [96] thereto are re-stated herein the same as if set forth in their entirety. **See also**: **ARTICLE I-SECTION 9, U.S. Constitution** [supra, page 6 hereof] and footnote [1] thereto; **U.S. Const. Amend. 5** [supra, page 6 hereof]; **U.S. Const. Amend. 14** [supra, page 10 hereof]; **ARTICLE 1, SECTION 8, Constitution of Tennessee** [supra, page 18 hereof]; **Ky Const 19** [supra, page 28 hereof]; **Ky Const 24** [id.]; **Ky Const 26** [id.]; and **K.R.S. 403.750(2)** together with corresponding footnote [31] thereto [supra, page 30 hereof].

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119. On May 19, 2000, the Kentucky Court of Appeals then rendered its **second "Opinion Affirming in Part, Reversing in Part"** [Exhibit "DDDD" hereto] which states, in

hereunto relevant part, as follows:

> "**On remand from this Court's decision**, Akers moved in limine to exclude evidence of certain bad acts. We have scrutinized the record and watched videotape of the hearing on the motion in limine. **It is clear that the trial court failed to follow the instructions on remand.**
>
> The court heard arguments from both sides as to the admissibility of the evidence. **Prior to making its ruling, the court acknowledged that it had not read our decision.**" (Page 15, lines 3 through 15)
>
> "At trial, the court permitted the introduction of extensive evidence of Akers' stalking of Bishop. **While this evidence was relevant to the first-degree stalking, it was not relevant to the count of first-degree assault.**" (Page 15, lines 17 through 21)
>
> "Despite the fact that the trial court used some of the correct vernacular during the hearing on the motion in limine, it failed to properly analyze the admissibility of other bad acts using the **Bell** test. **Without reading our decision the court could not have followed our directives.**" (Page 16, lines 4 through 10)
>
> "For the first-degree stalking charge, **the trial court might have admitted a portion of the evidence with a proper admonition.**" (Page 16, lines 13 through 15, emphasis added)
>
> "**The evidence of the stalking undoubtedly tipped the scales and convinced the jury that Akers had committed first degree assault.** While our opinion following Akers' first trial did not specifically so require, **the trial court should have granted Akers separate trials on each count.**" (Page 20, lines 7 thru 11, emphasis added)

> "...**a trial court may not use joint trials at the expense of a defendant's right to a fair trial**." (Page 21, 1 & 2, emphasis added)
>
> "**Fairness and justice require us to reverse [Akers'] conviction of first-degree assault** and remand the case for a new trial." (Page 21, lines 10 thru 12, emphasis added)

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> "Accordingly, ...**Akers' conviction of first-degree assault is reversed and this case is remanded with instructions to grant Akers a new trial at which evidence of prior bad acts shall be excluded**." (Page 21, lines 14 through 17)

120. The hereinabove "Opinion Affirming in Part, Reversing in Part" became "**FINAL**" on June 19, 2000, as a result of **neither party having filed for "Discretionary Review"** of/by the Kentucky Supreme Court; and the **Assistant Commonwealth's Attorney (Red Corn) adamantly refused to accept or tender any reasonable offer** as to "final resolution" of this **bizarre and outrageous case**.

121. **Facing the likely prospect of being transferred back to Fayette County Detention Center and being further subjected to the tyranny and oppression of Red Corn and Overstreet for an astounding third time around**[134], and under threat that Overstreet would refuse to reinstate Akers' **originally set pre-trial bail for "First-Degree Assault" in the amount of $7,500 Full Cash** (see hereinabove paragraph E-72) **in clear and distinct violation of Article IV-Section 2** and the **Eighth & Fourteenth Amendments** of/to the **United States Consitution; §§ 2, 3, 11, 12, 16, 17, ...**

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[134] See: **FIFTH AMENDMENT** to the **United States Constitution** and corresponding footnote [2] [supra, page 6 hereof]; **14th AMENDMENT to the**

United States Constitution and corresponding footnote [3] [id., pages 8 & 9 hereof]; and **Benton v. Maryland, 89 S.Ct. 2056 (1969)**, i.e., "9. **Double jeopardy prohibition** of the **Fifth Amendment represents fundamental ideal in constitutional heritage and it applies to the states through the Fourteenth Amendment; overruling Palko v. Connecticut, 302 U.S. 319, 58 S.Ct. 149, U.S.C.A. Const. Amends. 5, 14.** ...11. **Idea underlying constitution prohibition against double jeopardy is that state with all its resources and powers should not be allowed to make repeated attempts to convict an individual for an alleged offense, thereby subjecting him to embarrasment, expense and ordeal and compelling him to live in a continued state of anxiety and insecurity, as well as enhancing possibility that even though innocent he may be found guilty. U.S.C.A.Const.Amend.5.**" (emphasis added)

19, & 26 of the **Constitution of Kentucky**; and **RCr 4.04(d)(ii), RCr 4.16, & RCr 4.54(3)** of/to the **Kentucky Rules of Criminal Procedure** as was the case following the **first reversal of Akers' convictions**[135]; on July 7, 2000, Akers was **forced to enter a plea of "guilty" for "Assault under extreme emotional disturbance"** [Exhibit "EEEE"] a "**Class D Felony**" [see K.R.S. 508.040(2)(a), page 35 hereof] **as, apparently, the only means** of escaping the "oppression" of Bishop, Red Corn, Overstreet, ***et al***, and **finally securing Akers' liberty**.

122. Notwithstanding the foregoing facts, which **clearly demonstrate that any imprisonment of Akers was unconstitutional, unlawful, and improper, *ab initio***[136]; (a) Akers "served" a total imprisonment of **ONE THOUSAND, THREE HUNDRED, THIRTY-FIVE (1,335) DAYS** pursuant to his hereinabove alleged "crimes", **during which**: (b) Akers was subjected to the ominous and perpetual threats of:

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[135] See hereinabove paragraphs E-89 together with corresponding footnote [94], E-90 together with corresponding footnote [96], E-92, E-93, E-96, E-99 together with corresponding footnote [103], E-110 through E-112, E-113(d) together with footnote [127], E-116 together with footnote [131], and E-119. **See also**: **801 SW(2d) 321 (Ky 1990), Ingram v Commonwealth**, i.e., "**The Kentucky Constitution is superordinate to legislative intent...**" (emphasis added)

[136] **See**: **K.R.S. 509.020 Unlawful imprisonment in the first degree** [supra,

page 36 hereof], i.e., "(1) A person is guilty of unlawful imprisonment in the first degree when he **knowingly and unlawfully restrains another person under circumstances which expose that person to risk of serious physical injury**. (2) Unlawful imprisonment in the first degree is a Class D felony." (emphasis added). **See also**, ***inter alia***: **TITLE 18 U.S.C. § 1201** [supra, page 12 hereof] and/or **TITLE 18 U.S.C. § 1203** [id.]; **TITLE 18 U.S.C. § 1503** [id., page 13 hereof] and/or **TITLE 18 U.S.C. § 1512** [id., page 14 hereof]; **TITLE 18 U.S.C. §§ 1961, et seq.** [id.] and/or **TITLE 42 U.S.C. § 1983** [id., page 16 hereof] and/or **TITLE 18 U.S.C. § 1985** [id.] **in conjunction with TITLE 18 U.S.C. § 2** [id.] and/or **TITLE 18 U.S.C. § 3** [id.] and/or **TITLE 18 U.S.C. § 4** [id.] and **TITLE 18 U.S.C. § 5** [id.].

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(i) **serious physical injury** and/or **death**, (ii) **numerous life-threatening** and/or **permanently debilitating diseases**, (iii) **extortion** and/or **blackmail**, (iv) **irreparable injury to both his personal and business reputation and career, as well as** (v) **irreparable injury to Akers' overall prospects for any quality of life; yet** (c) Akers had **not been a subject of even a single "disciplinary action"** during his **entire term of imprisonment.**

123. Notwithstanding the foregoing facts, which **clearly demonstrate that any imprisonment of Akers was unconstitutional, unlawful, and improper, *ab initio*[136]**, Akers "served" a total of **ONE THOUSAND NINETY-FOUR (1,094) DAYS** imprisonment **in excess of** any **which could have lawfully resulted from any of his alleged "criminal conduct".**

124. Notwithstanding the foregoing facts, which **clearly demonstrate that any imprisonment of Akers was unconstitutional, unlawful, and improper, *ab initio*[136]**, Akers "served" **in excess of ONE HUNDRED EIGHTY (180) DAYS** for his "convictions" [See Exhibit "FFFF"] which remain effective as of filing of this "MEMORANDUM & MEMORANDUM OF LAW" and accompanying civil action.

125. Notwithstanding the foregoing facts, which **clearly demonstrate that any imprisonment of Akers was unconstitutional, and unlawful, *ab initio*[136]**, as of September 21, 1995, Akers had sustained injuries to his business, i.e., Coleman/Akers & Akers, Inc. (C/AA), and his personal property, in an aggregate amount **in excess of EIGHT HUNDRED SIXTY THOUSAND AND NO/100 DOLLARS**

($860,000.00) as the proximate result of those unconstitutional

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and/or unlawful acts of/by the named Defendants as hereinabove set forth, **in detail**.

126. Notwithstanding the foregoing facts, which **clearly demonstrate that any imprisonment of Akers was unconstitutional, unlawful, and improper**, ***ab initio*** [136], Akers sustained a **permanent forty percent (40%) loss and/or impairment of hearing** abilities **as a proximate result** of those unconstitutional and/or unlawful acts of/by the named Defendants as set forth herein, **in detail**.

127. Notwithstanding the foregoing facts, which **clearly demonstrate that any imprisonment of Akers was unconstitutional, unlawful, and improper**, ***ab initio*** [136], as of filing of the within "MEMORANDUM & MEMORANDUM OF LAW" and accompanying civil action, **Akers has sustained, and will continue to sustain** on a perpetual **and indeterminate basis**, injuries to his businesses, hereinabove "Cadre" and/or "Akers & Akers of Tennessee, Inc." (hereinafter "AAT"), **and in his personal property, in an amount in excess of THREE MILLION, TWO HUNDRED SEVENTY-TWO THOUSAND AND NO/100 DOLLARS ($3,272.000.00) as the proximate result** of those said unconstitutional and unlawful acts of/by the named Defendants.

ARGUMENTS

128. See "**CLAIM(S) FOR RELIEF**", "**CIVIL ACTION PURSUANT TO: TITLE 18 U.S.C. § 1964(C), TITLE 42 U.S.C. § 1983, & TITLE 42 U.S.C. § 1985(3)**", "**COUNT ONE**" through "**COUNT TWENTY-EIGHT**", pages 96 through 128 thereof, filed contemporaneously herewith, i.e., no further "Arguments" are necessary.

CONCLUSION

129. See "**PRAYER(S) FOR RELIEF**", "**CIVIL ACTION PURSUANT TO: TITLE 18 U.S.C. § 1964(C), TITLE 42 U.S.C. § 1983, & TITLE 42 U.S.C. § 1985(3)**" filed contemporaneously herewith, pages 128 and 129 thereof, i.e., no further "Conclusions" are necessary.

VERIFICATION

COMES THE PLAINTIFF, James G. Akers, **without counsel**, and hereby verifies that, to the best of my knowledge, information, and belief, all "facts" represented hereinabove are true; & further accurately represent those events encompassed therein as they occurred and as relate to claims asserted in the herewith accompanying and contemporaneously-filed "**CIVIL ACTION PURSUANT TO: TITLE 18 U.S.C. § 1964(C), TITLE 42 U.S.C. § 1983, & TITLE 42 U.S.C. § 1985(3)**".

s/ James G. Akers
JAMES G. AKERS, Plaintiff

STATE OF TENNESSEE)
) **ss.**
COUNTY OF DAVIDSON)

THIS IS TO CERTIFY that the hereinabove James G. Akers has personally appeared before me on this, the 21st day of November, 2000, has acknowledged the foregoing, and subscribed his signature thereto in my presence.

s/ Jill C. Rosenberry
NOTARY PUBLIC, State-at-large

My commission expires: 09/05/2004

CERTIFICATE OF SERVICE

COMES THE AFFIANT, Dorothy M. Mackin, and hereby certifies that: (1) I am not a party to the civil action styled "**JAMES G. AKERS, Plaintiff, V. CAROLYN P. BISHOP, et al, Defendants.**"; (2) I am a **citizen** of the **United States of America** and the **State of Tennessee** therein; (3) I am over the age of 21; (4) to the best of my knowledge, information, and belief, I am duly qualified to execute service of process on behalf of Plaintiff James G. Akers; and (5) I have, on the date last written and notarized hereinbelow, served a true and accurate copy of the foregoing "**MEMORANDUM & MEMORANDUM OF LAW**", together with all "Exhibits" thereto in the form of "**APPENDIX**"/**RELEVANT "EXHIBITS"** pursuant to the civil action styled "**JAMES G. AKERS, Plaintiff, V. CAROLYN P. BISHOP, et al, Defendants.**", via "**CERTIFIED MAIL-RETURN RECEIPT REQUESTED**", on the named Defendants as follows: **(Listing of served Parties and/or respective Counsel-of-Record omitted from instant Petition for Writ of Certiorari. See official record for listings.)**

s/ Dorothy M. Mackin
DOROTHY M. MACKIN,
c/o Post Office Box 3648
Brentwood, Tennessee 37024

STATE OF TENNESSEE)
) **ss.**
COUNTY OF DAVIDSON)

THIS IS TO CERTIFY that the hereinabove Dorothy M. Mackin has personally appeared before me on this, the 21st day of November, 2000, has acknowledged the foregoing, and subscribed her signature thereto in my presence.

s/ Jill C. Rosenberry
NOTARY PUBLIC, State-at-large
My commission expires: 09/05/2004